



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

MEETING

A G E N D A

DATE – AUGUST 8, 2023

TIME – 6:00 P.M.

1. Roll Call.
2. Pledge to the Flag.
3. Approval of June 13, 2023 regular meeting minutes.

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

Time limits will be observed:

Staff – 10 minute presentation.

Applicant – 15 minute presentation (unless time extended by consensus of Board).

Public Comment – 3 minutes per speaker, 5 minutes if speaking on behalf of a group.

Applicant Rebuttal and Closing Staff Comments – 10 minutes each.

4. Quasi-judicial requiring disclosure of ex parte communication:
Application #3370 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 80% in the C-2 (General commercial and shopping center) zoning district – proposed Lot B, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000D0-0051; 1.10+/- acres (48,061+/- s.f.). Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023050061 *(TRC, PDB)*

5. Quasi-judicial requiring disclosure of ex parte communication:
Application #3371 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 80% in the C-2 (General commercial and shopping center) zoning district – proposed Lot A, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000D0-0051; 1.12+/- acres (48,699+/- s.f.). Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023050062 (TRC, PDB)
6. Quasi-judicial requiring disclosure of ex parte communication:
Application #3372 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 80% in the C-2 (General commercial and shopping center) zoning district – proposed Lot C, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000D0-0051; 1.10+/- acres (48,010+/- s.f.). Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023050063 (TRC, PDB)
7. Quasi-judicial requiring disclosure of ex parte communication:
Application #3373 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 80% in the C-2 (General commercial and shopping center) zoning district – proposed Lot D, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000D0-0051 and 08-12-31-0650-000B0-0074; 1.09+/- acres (47,545+/- s.f.). Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023050064 (TRC, PDB)
8. Quasi-judicial requiring disclosure of ex parte communication:
Application #3374 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 80% in the C-2 (General commercial and shopping center) zoning district – proposed Lot E, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000B0-0074; 2.35+/- acres (102,374+/- s.f.). Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023050065 (TRC, PDB)
9. Quasi-judicial requiring disclosure of ex parte communication:
Application #3375 – **VARIANCE TO EXCEED MAXIMUM IMPERVIOUS AREA** – request to exceed the maximum impervious area from 70% to 90% in the C-2 (General commercial and shopping center) and I (Industrial) zoning districts – proposed Lot F, Cornerstone at Seminole Woods. Portion of Parcel No. 08-12-31-0650-000D0-0050 and 08-12-31-0650-000B0-0071; 10.18+/- acres (443,622+/- s.f.). Owner: BJ's Wholesale Club, Inc./Applicant: Alann Engineering Group, Inc.
Project #2023050066 (TRC, PDB)

10. Quasi-judicial requiring disclosure of ex parte communication:
Application #3377 – **VARIANCE – 15 FOOT REAR YARD SETBACK VARIANCE FROM THE REQUIRED 20 FOOT MINIMUM REAR YARD SETBACK IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – 46 Audubon Lane (Lot 64, Sugar Mill Plantation Phase II). Parcel No. 37-12-31-5627-00000-0640; Parcel size 18,959+/- square feet. Owner: Steve and Kelsey Swearingen/Applicant: Steve Swearingen.
Project #2023060066 (TRC, PDB)
11. Quasi-judicial requiring disclosure of ex parte communication:
Application #3378 – **PRELIMINARY PLAT IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – request for preliminary plat review for Hammock Park. Parcel No.: 40-10-31-3280-00000-0010; -0020; -0030; -0050; and -00A0; 7.02+/- acres. Owner DbD Solutions, LLC/Applicant: Stephenson Wilcox & Associates.
Project #2023060068 (TRC, PDB, BCC)
12. Quasi-judicial requiring disclosure of ex parte communication:
Application #3376 – **PRELIMINARY PLAT IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – request for a preliminary plat for Amberwoods. Parcel No. 22-14-31-0000-01010-0130 and 22-14-31-0000-01010-0140; 14.363+/- acres. Owner: US Capital Alliance, LLC/Applicant: Alann Engineering Group, Inc.
Project #2023060026 (TRC, PDB, BCC)
13. Quasi-judicial requiring disclosure of ex parte communication:
Application #3381 – **SITE DEVELOPMENT PLAN REVIEW IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT FOR WOODSIDE AT ORMOND STATION** – Parcel No. 21-14-31-0000-01010-0000; 21.236+/- acres. Owner: US Capital Alliance, LLC/Applicant: Alann Engineering Group, Inc.
Project 2023060075 (TRC, PDB, BCC)
14. Staff Comments.
15. Board Comments.
16. 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.
17. Adjournment.

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

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

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

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING**

Flagler County Government Services Building, 1769 East Moody Blvd.,
Board Chambers, Bunnell, FL

MEETING MINUTES

Tuesday, June 13, 2023 at 6:00 PM

1. Roll Call: The meeting was called to order by the Chair and a quorum was present.

Members present: Michael Boyd, Timothy Conner, Heather Haywood, Mark Langelo, Anthony Lombardo and Fernando Melendez (Chair).

Members excused: Jack Corbett.

Staff present: Adam Mengel, Growth Management Director; and Gina Lemon, Development Review Planner III; Hannah Williams, Land Development Technician.

Board Counsel: Sean Moylan, Deputy County Attorney.

2. Pledge to the Flag.

3. Approval of: May 9, 2023 regular meeting minutes.

Motion: Motion for approval.

Motion by: Mark Langelo

Motion 2nd by: Michael Boyd

Vote: Motion carried unanimously.

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

Application #3357 – **VARIANCE – FIVE FOOT STREET SIDE YARD SETBACK VARIANCE FROM THE REQUIRED 20 FOOT MINIMUM STREET SIDE YARD SETBACK IN THE MH-1 (RURAL MOBILE HOME) DISTRICT** – 5118 Pecan Avenue (Lot 12, Block 107, Daytona North); Parcel Number: 13-12-28-1800-01070-0120; 40,500+/- square feet. Owner/Applicant: Coy Sadler.

Project #2023040024

(TRC, PDB)

No disclosures by the Board members.

Staff Presentation: Mr. Mengel presented the staff report.

Applicant Presentation: Coy Sadler, 5118 Pecan Avenue, Bunnell, FL. It was not to be on Pine Street it was always to be between the home and Pecan Avenue.

Mr. Langelo you intended to the building to be where it was.

Mr. Sadler responded that he intended to put the building where it is.

PUBLIC COMMENTS:

Frank Corr 5097 Pecan Avenue, he described the road being in the wrong place.

Mr. Mengel described that the travel lanes are within the right of way.

Jennifer Wilson, 5171 Palm Avenue, he has a well kept property.

Mr. Langelo questioned the setbacks for the front. Pecan is a street side yard setback.

Mr. Mengel responded with the front setback is 99-feet. The street side yard setback is 15-feet.

Motion: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3357 for a five foot street side (South) yard setback variance from the minimum 20 foot street side yard setback in the MH-1 District for a detached garage at 5118 Pecan Avenue (Parcel #13-12-28-1800-01070-0120).

Motion by: Michael Boyd

Motion 2nd by: Timothy Conner

Vote: Carries unanimously.

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

Application #3363 – **VARIANCE – 0.50 FOOT LEFT SIDE YARD SETBACK VARIANCE FROM THE REQUIRED FIVE FOOT MINIMUM SIDE YARD SETBACK IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – 7 Cinnamon Beach Way (Lot 2, Ocean Hammock Parcel A-5 Plat One). Parcel Number: 04-11-31-3512-00010-0020; 6,943+/- square feet. Owner: Mehrdad Nikzad, Trustee/Applicant: John Castanheira d/b/a JJ & D Development, LLC.

Project #2023040057

(TRC, PDB)

No disclosures by the Board members.

Staff Presentation: Mr. Mengel presented the staff report.

Applicant Presentation: John, Castanheira and Grayson Merriwether, project manager presented the item. The block is done, the foundation survey is when they noticed that they have the problem. They have spoken with the surveyor about the mistake, he is not aware of the

Mr. Langelo, house in the monolithic.

Mr. Castanheira responded that the slab is monolithic and trusses are delivered.

Grayson Merriwether, project manager described that he has built quite a few of these homes, 99% of the a/c units go all the way to the property line.

Anthony Lombardo commented that the landscape maintenance is done by one company.

PUBLIC COMMENTS:

None.

Mr. Lombardo commented that these after the fact variances are tough

Motion: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3363 for a 0.50 foot left side (South) yard setback variance from the minimum five foot side yard setback in the Ocean Hammock Parcel A- 5 Plat One PUD for a single-family dwelling foundation at 7 Cinnamon Beach Way (Parcel #04-11-31-3512-00010-0020).

Motion by: Anthony Lombardo

Motion 2nd by: Michael Boyd

Mr. Langello commented that the lot shape is unique.

Vote: Carries unanimously.

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

Application #3369 – **VARIANCE – SEVEN FOOT REAR YARD SETBACK VARIANCE FROM THE REQUIRED 20 FOOT MINIMUM REAR YARD SETBACK IN THE R/C (RESIDENTIAL/LIMITED COMMERCIAL) DISTRICT** – 3303 N. Ocean Shore Boulevard (Lot 11, Kanaha Beach). Parcel Number: 23-11-31-0000-01022-0110; 5,095.5+/- square feet. Owner: Joseph Gerard Murphy and Mary Ann Murphy, Husband and Wife/Applicant: Joseph Gerard Murphy.

Project #2023040077

(TRC, PDB)

No disclosures by the Board members.

Staff Presentation: Mr. Mengel presented the staff report.

Applicant Presentation: Joe Murphy 3303 N. Ocean Shore Boulevard, two years later painters discovered that the porches are pulling away from the house. They are getting water damage from the porches pulling away from the home. He consulted with the neighbors and they support the variance.

PUBLIC COMMENTS:

Tom Tant, 3311 N. Ocean Shore Boulevard they are supporters of the variance. They noticed that the construction on the variance is needed. He has no qualm on the 7-foot variance.

Mr. Langelo commented that these lots are a parallelograms.

Motion: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3369 for a seven foot left rear (East) yard setback variance from the minimum 20 foot rear yard setback in the R/C District for a reconstructed deck at 3303 N. Oceanshore Boulevard (Parcel #23-11-31-0000-01022-0110).

Motion by: Mark Langelo

Motion 2nd by: Michael Boyd.

Vote: Carries unanimously.

7. Legislative, not requiring disclosure of ex parte communication:

Application #3361 – **FUTURE LAND USE MAP AMENDMENT FROM AGRICULTURE & TIMBERLANDS TO INDUSTRIAL**; 390 Sawgrass Road; Parcel Number: 04-12-30-0000-02031-0000; 25.41+/- acres. Owner: Pamela M. (Stolsworth) Howe/Applicant: Michael J. Woods, Esquire/Cobb Cole.

Project #2023040043

(TRC, PDB, BCC)

Mark Langelo he owns the property directly east of the subject property, his property is industrial property. He has no conflict of interest; no special gain and his property is in the City of Bunnell.

Sean Moylan owning adjacent property that does not rise to the level of a conflict of interest by that is recognized by the commission on ethics. It is too remote and speculative, conflict of interest would require a special gain.

Timothy Conner asked if the property Mr. Langelo owns was Agriculture & Timberland.

Mr. Langelo answered that his property was actually recreational. His was in the City of Bunnell, he changed it from recreational to industrial in the City of Bunnell.

Staff Presentation: Mr. Mengel presented the staff report.

Timothy Conner, asked what the existing uses are around the property.

Mr. Mengel answered that a concrete batch plant, block plant and land clearing operation.

Applicant Presentation: Michael J. Woods, Esquire Cobb Cole, 231 N. Woodland Boulevard, DeLand. Adam was able to apply the higher industrial use to the property. Why are we coming to the have properties land use as Industrial and rezoning to Industrial for this parcel. The properties on the north side of Sawgrass the property is adjacent to the like uses the railroad on the east of the subject property. It is on 25+- acres. He does have Chris Ralph, BGE, Incorporated.

Michael Boyd asked will there be any buffer between this use and the fairgrounds?

Mr. Woods responded that the conceptual site plan does show a substantial buffer to the fairgrounds.

Mark Langelo future warehousing space, conceptual site plan.

Mr. Woods responded that the layout is conceptual for the current use. The A-1 Block plant has purchased the property now.

Mark Langelo the owner of the property is the concrete block plant.

Mr. Mengel there is an uncomplimentary land use buffer and that would be landscaped.

PUBLIC COMMENTS:

None.

Motion: The Planning and Development Board recommends to the Board of County Commissioners approval of Application #3361, a Future Land Use Map amendment (for Parcel #04-12-30-0000-02031-0000) totaling 25.41+/- acres from Agriculture & Timberlands to Industrial, finding that the amendment is consistent with the Flagler County Comprehensive Plan.

Motion by: Mark Langelo.

Motion 2nd by: Michael Boyd

Vote: Carries unanimously.

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

Application #3362 – **REZONING FROM AC (AGRICULTURE) DISTRICT TO I (INDUSTRIAL) DISTRICT**; 390 Sawgrass Road; Parcel Number: 04-12-30-0000-02031-0000; 25.41+/- acres.

Owner: Pamela M. (Stolsworth) Howe/Applicant: Michael J. Woods, Esquire/Cobb Cole.

Project #2023040045

(TRC, PDB, BCC)

No disclosures by the Board members.

Staff Presentation: Mr. Mengel presented the staff report.

Applicant Presentation: Michael J. Woods, Esquire Cobb Cole, 231 N. Woodland Boulevard, DeLand. Here for any questions.

PUBLIC COMMENTS:

None.

Motion: The Planning and Development Board recommends to the Board of County Commissioners approval of Application #3362, a rezoning from AC (Agriculture) to I (Industrial) District for 25.41+/- acres, finding that the proposed is consistent with the Flagler County Comprehensive Plan and the Flagler County Land Development Code, subject to development not to commence until approval of a Future Land Use Map amendment from Agriculture & Timberlands to Industrial.

Motion by: Michael Boyd

Motion 2nd by: Anthony Lombardo

Vote: Carries unanimously.

9. Quasi-judicial requiring disclosure of ex parte communication:
Application #3368 – **SITE DEVELOPMENT PLAN REVIEW IN A PUD (PLANNED UNIT DEVELOPMENT) DISTRICT FOR AMBERWOODS AT HUNTER’S RIDGE** – Parcel Numbers: 22-14-31-0000-01010-00130 & 0140; 14.363+/- acres. Owner: US Capital Alliance, LLC/Applicant: Alann Engineering Group, LLC.
Project #2023040075 (TRC, PDB, BCC)

No disclosures by the Board members.

Staff Presentation: Mr. Mengel presented the staff report.

Timothy Conner questioned the level of buildout. Is there a common point in time where the developer is required to do something to Airport Road?

Mr. Mengel answered Mr. Conner’s question with impact fees, Airport Road owned by the Master HOA, remainder after the round-about SR 40 is owned by CDD’s. It is anticipated to be 4-laned divided roadway for Airport Road.

Timothy Conner questioned if there have been comments made by Flagler County, Volusia County and FDOT.

Mr. Mengel answered that there is no planning of 4-laning of Airport Road, it is meeting the concurrency requirements at this time.

Mr. Langello questioned if concurrency is vested?

Mr. Mengel responded that this is a development that is occurring between. The student generation is being taken care of through the agreement. Fire is tied to 750 rooftops. We are in between that right now.

Applicant Presentation: Cole Buck, Alann Engineering Group, Inc. small 40 lot subdivision, permitting through Ormond Beach and Flagler County. They have coordinated with FDOT on the traffic analysis. It is a multilayered permitting process for this project.

PUBLIC COMMENTS:

Susan Garrison, 40 Heron Wing Drive. She read from a prepared statement. They are a 55+ community, they are Huntington Village. They are part of the master association of Hunter's Ridge. They asked has there been a wildlife the wildlife has shifted. The designation was given years ago, the SJRWMD. They don't see the SJRWMD buffers in the plan. She questioned the FPL buffers. The residents do believe that there is a home for gophers. One of the neighbors has a nest behind their house. The law enforcement and fire do respond but it takes them about 25 minutes. The new neighborhood development north of this area will be demanding of those services. Currently there only a few children within Hunter's Ridge but with the new homes coming in there will be hundreds of children. The beautiful fountain blocks are being smushed down. The Airport Road is hazardous, there are not any lane lines on Airport Road. The residents have suffered through night and day pumping. Could hours be set so that there is time for quiet time.

Mr. Mengel the green is actually wetlands, the demonstrated the proposed lot line. The development does not have a common lot line with the rear lot lines. There is a common conservation area.

Royal Burres, 25 Heron Wing Drive, there are no lines on the Airport Road. We do get service from Volusia County, no fire protection. Please consider what is actually going on down there.

For the benefit of the public, Sean Moylan the Planning and Development Board is recommending on the PUD Site Development Plan, the final say is by the Board of County Commission. The DRI was approved many years ago, the exactions were taken at that time.

Maureen Janover, 36 Heron Wing Drive she asked what is to stop the Variances.

Mr. Moylan answered, that could happen in the future. The variances, nothing is to stop a variance from being applied for.

Mr. Mengel responded that the PUD Site Development Plan would be approved, then followed by a Preliminary Plat and then followed by a Final Plat. The PUD Site Development Plan then leads to the preliminary plat.

Mark Langello agrees with Mr. Conner's question about the road. We are here to specifically to look at a site plan. We are a recommending body post the questions to the County Commission. The next body that looks at this is the County Commission, why isn't this road being fixed, they are the same people that will listen to you.

Motion: The Planning and Development Board recommends to the Board of County Commissioners approval of the PUD Site Development Plan and PUD Development Agreement.

Motion by: Mark Langelo

Motion 2nd by: Michael Boyd

Cole Buck, Alann Engineering Group, Inc. in rebuttal they have done an environmental survey, no tortoises on the site. There will still be a public safety site in the area.

Vote: Carries unanimously.

10. Staff Comments.

None.

11. Board Comments.

None.

12. 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.

No public comments.

13. Adjournment:

Motion by: Michael Boyd

Second by: Mark Langelo

Meeting adjourned at 8:00 p.m.

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING/AGENDA ITEM #4**

SUBJECT: QUASI-JUDICIAL – Application #3370 – Request for a variance to exceed the maximum impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot B, Cornerstone at Seminole Woods. Parcel No. 08-12-31-0650-000D0-0051; 1.10+/- acres. Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc. (Project #2023050061).

DATE OF MEETING: July 11, 2023 August 8, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is to exceed the impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot B, Cornerstone at Seminole Woods. This proposed parcel is 1.10+/- acres in size, identified as part of Parcel No. 08-12-31-0650-000D0-0051:



On May 23, 2023, Alann Engineering Group, Inc., submitted an application for a variance to exceed the maximum allowable impervious area. This request is prior to commencement of construction.

The subject property is described as proposed Lot B of the Cornerstone at Seminole Woods subdivision. The plat is at preliminary approval and not yet recorded in the Public Records of Flagler County, Florida.

This application was reviewed by the Technical Review Committee (TRC) at its June 21, 2023 meeting. The Technical Review Committee provided comments to be addressed by the applicant, and the applicant provided their response.

Public notice has been provided for this application according to Flagler County Land Development Code Section 2.07.00.

This agenda item is:

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

OPTIONS FOR THE BOARD:

APPROVAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3370 to exceed the impervious area up to a maximum of 80 percent on proposed Lot B, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051).

DENIAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have not been met and therefore denies Application #3370 to exceed the impervious area up to a maximum of 80 percent on proposed Lot B, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051).

CONTINUANCE: The Planning and Development Board continues the variance request on the basis that additional information is needed from staff or the applicant. Based on the presentation and the public hearing, the Board does not have sufficient information to be able to render a decision on the variance request. Continuing the variance request to a time and date certain will preserve public notice and provide an opportunity for staff or the applicant to provide additional information.

ATTACHMENTS:

1. Technical Staff Report
2. Application and supporting documents
3. TRC comments
4. Applicant's response to TRC comments
5. Public notice

**APPLICATION #3370
VARIANCE IMPERVIOUS AREA UP TO MAXIMUM OF 80%
IN THE C-2 DISTRICT
PROPOSED LOT B, CORNERSTONE AT SEMINOLE WOODS
TECHNICAL STAFF REPORT**

Application/Project #: 3370/2023050061

Address: Not assigned (Proposed Lot B, Cornerstone at Seminole Woods)

Owner: Seminole Woods Investments, LLC

Applicant: Alann Engineering Group, Inc.

Parcel #: Part of 08-12-31-0650-000D0-0051

Parcel Size: 1.10+/- acres

Legal Description: Proposed Lot B, Cornerstone at Seminole Woods

Existing Zoning and Land Use Classification:

Zoning: C-2 (General Commercial and Shopping Center) District

Land Use: Commercial High Intensity

Future Land Use Map Classification/Zoning of Surrounding Land:

North: State Road 100

East: City of Palm Coast commercial

South: Industrial/I (Industrial) zoning district

West: Commercial: High Intensity and Industrial/ C-2 (General Commercial and Shopping Center) and I (Industrial) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.17, *C-2 – General commercial and shopping center district*; Section 3.07.03, *Procedure for variances and special exceptions*; Section 3.07.03.E, *Variance guidelines*.

General description of request

Variance Guideline Analysis

LDC Section 3.07.03.E, *Variance guidelines*, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant's statements (included below and attached in their entirety) and staff's analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and*

Applicant's response: The development as a whole (which is now it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for – such is the hardship in this case.

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC, Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than the 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

Staff analysis: The County's C-2 (General commercial and shopping center) zoning district provides dimensional requirements for shopping centers (where tenants lease

space held under common ownership) based on project size, while general commercial development (where parcels are individually described and separately owned) is based on lot size. Regardless of the shopping center or general commercial approach within the C-2 zoning district, the minimum pervious area is set as thirty (30) percent. Using the inverse of the minimum pervious area, the maximum impervious area would be set at 70% of the parcel area.

The County's Land Development Code does not provide for a master planned development – inclusive of common elements – outside of a Planned Unit Development (PUD). It was originally anticipated that the BJ's Wholesale Club parcel (Proposed Lot F) would begin its vertical development through a County-issued building permit, with the Cornerstone at Seminole Woods plat to be completed prior to annexation into the City of Palm Coast. Individual building permits for the outparcels were to follow final plat approval, and the BJ's permit would be completed by the County following annexation. Aside from discussions with the developer, the County has no formal agreement with the developer as to process. The timing of the development of the Cornerstone project is (for the most part) to be guided by the Pre-Annexation Agreement between the developer and the City. The County is not a party to the Pre-Annexation Agreement, and would not enforce any of its provisions inclusive of the timing of development.

However, the developer has opted instead to pursue development of individual lots now prior to annexation. While the County is not opposed to this approach, it creates the current need for the variance for each of the proposed lots since stormwater is handled through a master stormwater system, enabling each lot to maximize its buildout as would be consistent with a master planned development (as opposed to a single commercial use as is anticipated by the C-2 zoning district).

As a forward-looking statement, development of the remaining proposed lots will become problematic without an approved final plat. As an example, the proposed Lot B is part of Parcel No. 08-12-31-0650-000D0-0051. Proposed Lots A, B, C, and part of D are all within Parcel No. 08-12-31-0650-000D0-0051. The County can permit single developments occurring on identified parcels, but multiple developments on a single parcel – without a plat – is not permitted by the County's Land Development Code.

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

Applicant's response: The conditions were not created by the applicant – the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria

for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

Staff analysis: Had the project annexed into the City as originally discussed, the variance to exceed the impervious area would not have been necessary. The delay in annexation – and the permit submittal for the proposed outparcels – have made the variance necessary.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code.

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

Staff analysis: Hindsight as to the intended pace of development would have made the Planned Unit Development (PUD) and completion of the subdivision plat a more prudent decision instead of multiple variances. Even with the need for the mix of variances for this project, the approval does not cause substantial detriment to the public health, welfare, safety, and morals of the community.

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

Applicant's response: The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed – it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

Staff analysis: The proposed use is a permitted use in the C-2 zoning district. Granting the variance would not permit a use other than those listed within the C-2 zoning district.

County staff disagrees with the applicant's assertion that the County missed the impervious limit in its prior reviews. Impervious area – like other dimensional requirements – is determined at the site plan level for each parcel's development, something that was not previously contemplated (or approved) through prior reviews by the County. For example, a proposed restaurant – and its layout – was not approved by the County through the preliminary plat. Specificity comes through successive submittals and review (and approval) steps. And as a final point, the development of individual lots and their conformity to the County's requirements was viewed as moot by the County due to the pending annexation: the development of

each of the lots were to satisfy City requirements, not County requirements. The delay in the annexation into the City has prompted the need for the variance.

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

Applicant's response: The variance will be the minimum necessary to alleviate the hardship.

The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe that it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

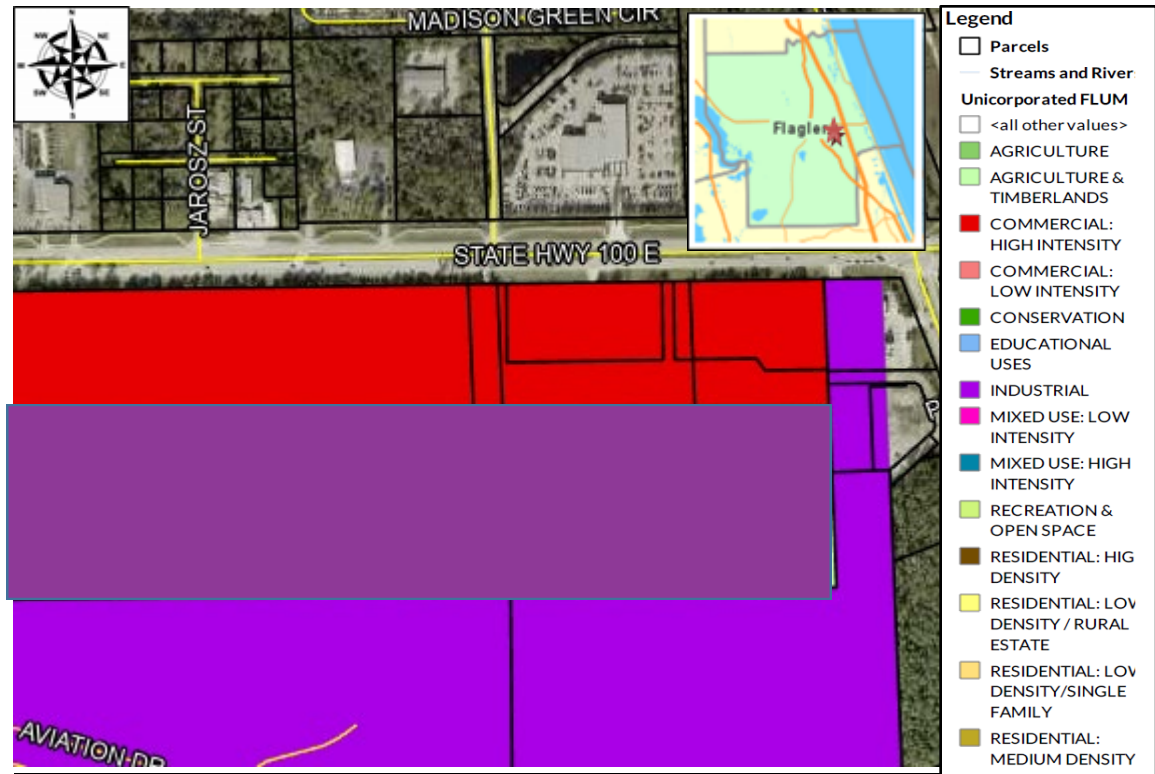
It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County, Florida ("Annexation Agreement"). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City's LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County's LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant's reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully request that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

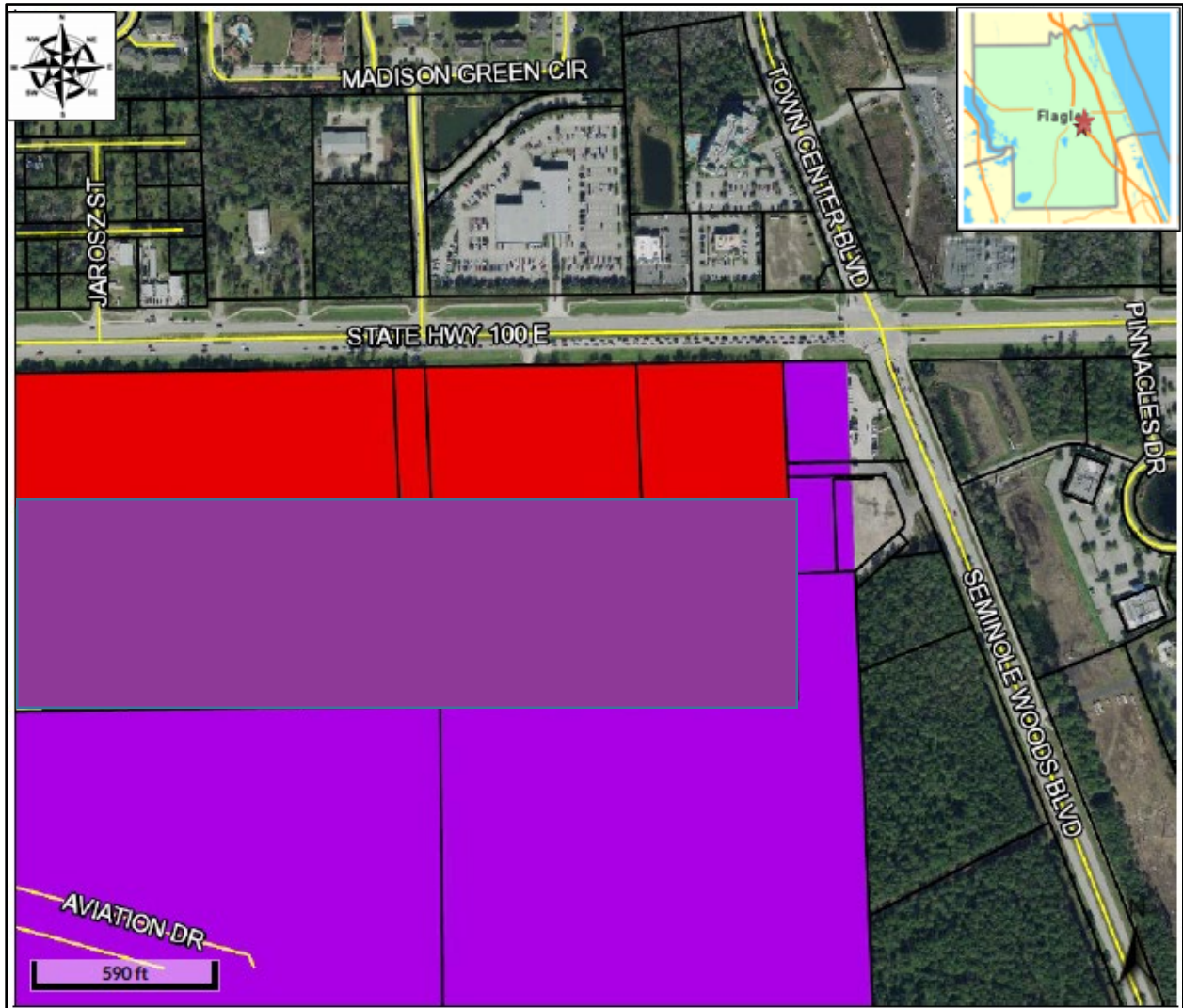
Staff analysis: The requested variance is the minimum variance needed to alleviate the hardship. County staff does not agree with the applicant's interpretation of the

applicability of the C-2 zoning's dimensional requirements. As for the Pre-Annexation Agreement, the developer is dependent on the City for its utilities regardless of whether or not the applicant was a party to the Settlement Agreement. The County does not separately have available utilities to serve the proposed project.

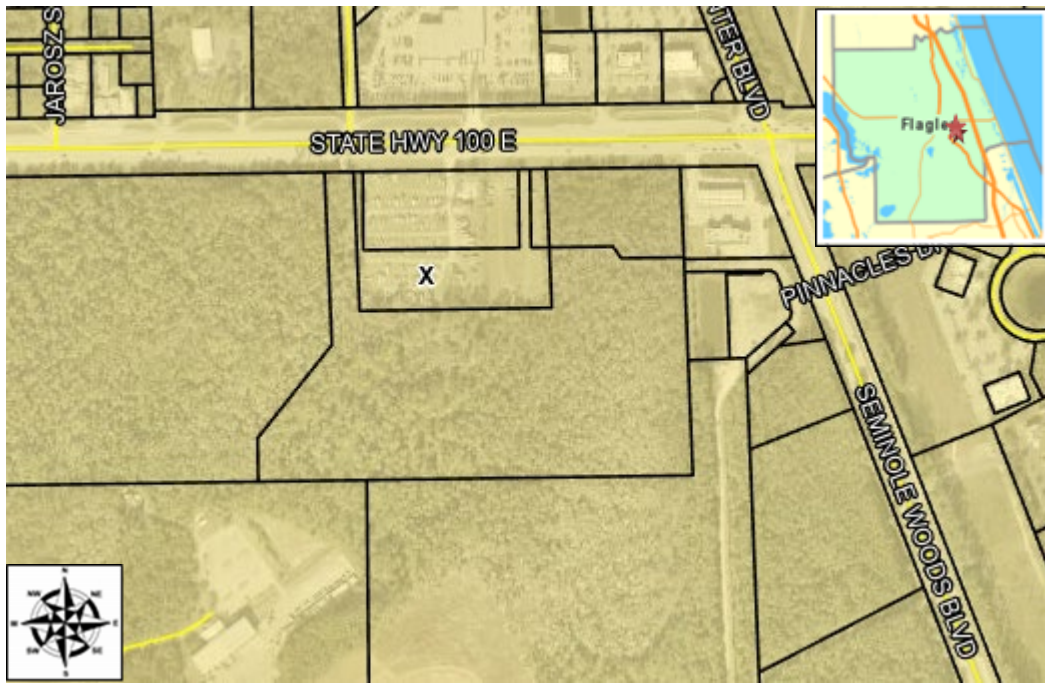
Future Land Use



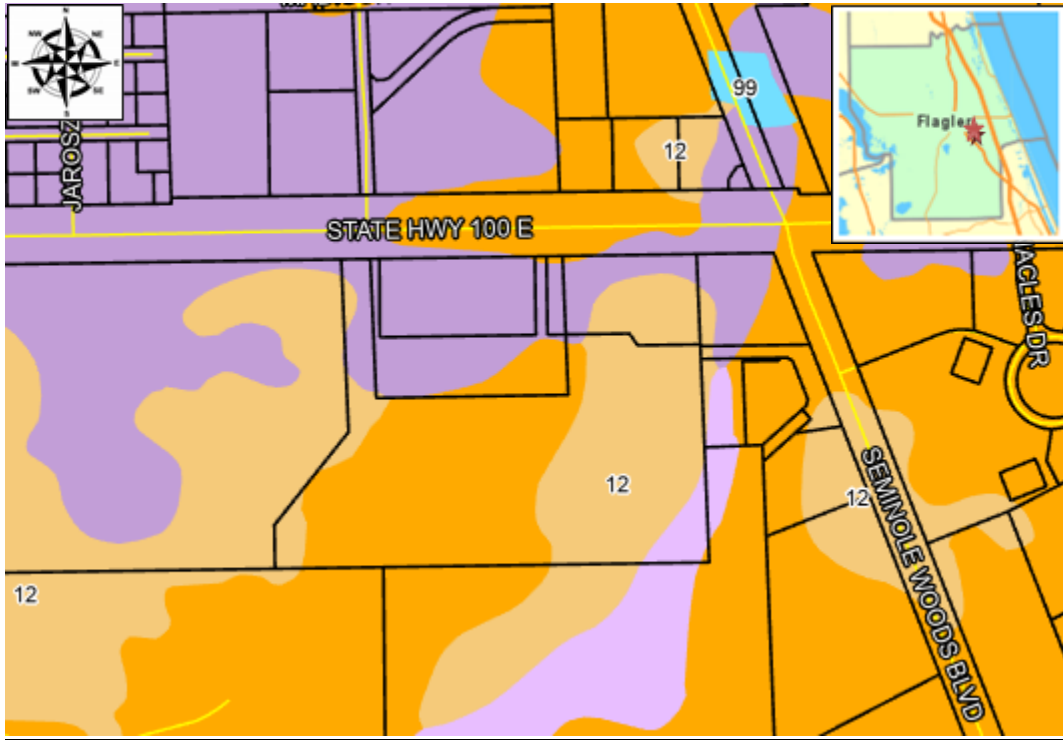
Zoning



Flood Zone

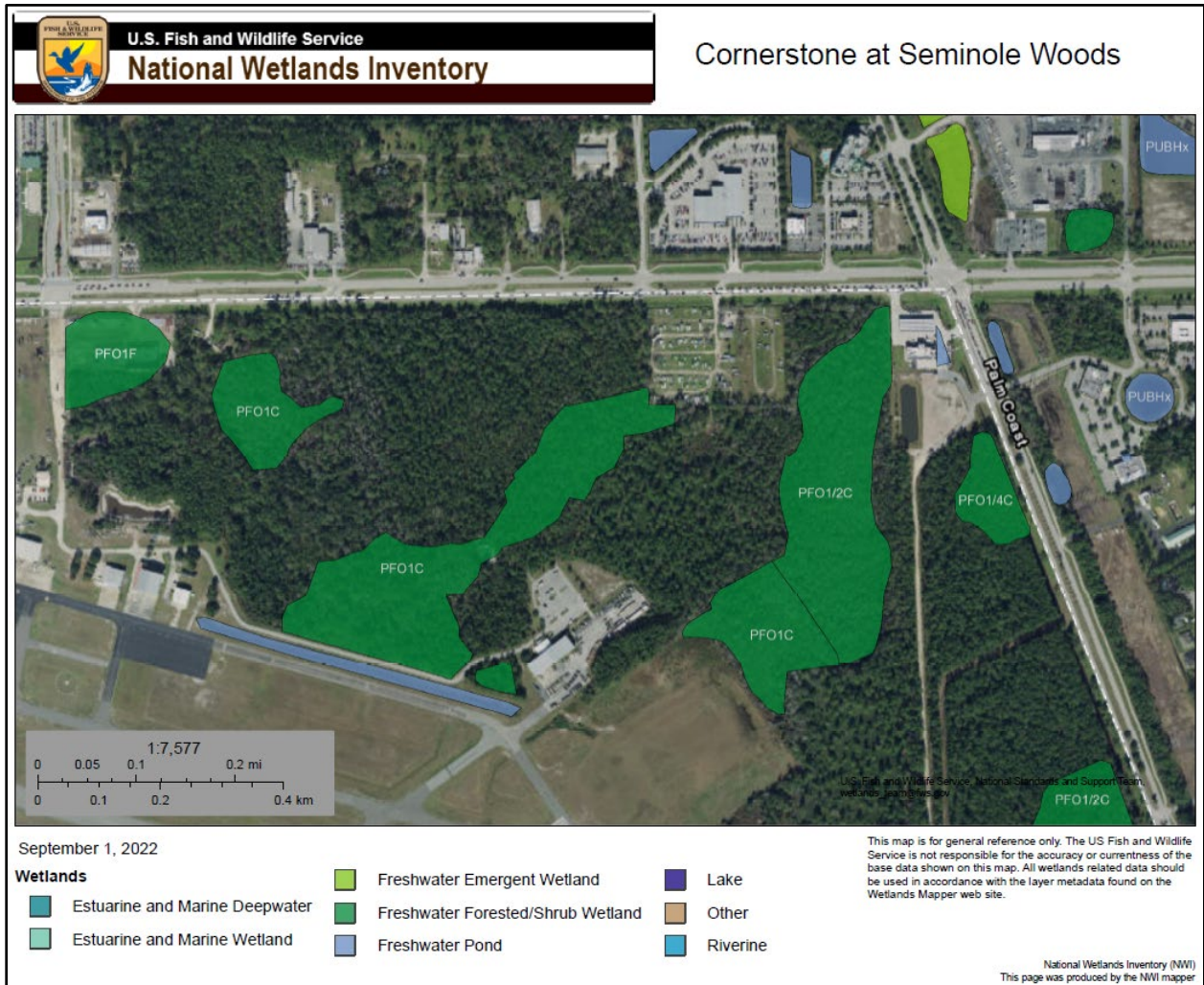


Soils



Soil Types
12 Placid, Basinger and St Johns soils, depressional
19 Valkaria fine sand
21 Smyrna fine sand

Wetlands





APPLICATION FOR VARIANCE

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


Application/Project #: 3370 / 2023050061

PROPERTY OWNER(S)	Name(s): Matthew Williams, Seminole Woods Investments, LLC		
	Mailing Address: 7331 Office Park Pl Ste 200		
	City: Melbourne	State: Florida	Zip: 32940
	Telephone Number 321-254-2400	Fax Number n/a	

APPLICANT/AGENT	Name(s): Kimberly A. Buck, Alann Engineering Group, Inc.		
	Mailing Address: 880 Airport Rd., Suite 113		
	City: Ormond Beach	State: FL	Zip: 32174
	Telephone Number 386-673-7640	Fax Number n/a	
	E-Mail Address: kim.buck@ae-group.com		

SUBJECT PROPERTY	SITE LOCATION (street address):	5851 State Hwy 100 E, Palm Coast, FL 23164	
	LEGAL DESCRIPTION: (briefly describe, do not use "see attached")	Parcel of land located in Sec 8, T 12 S, R 31 E, in Flagler County, FL.	
	Parcel # (tax ID #):	08-12-31-0650-000D0-0051	
	Parcel Size:	Lot B: 1.10 Acres	
	Current Zoning Classification:	Planned Unit Development	
	Current Future Land Use Designation	Commercial: High Intensity	
	Subject to A1A Scenic Corridor IDO?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO

Relief Requested: To allow for an increase of impervious area to 80%.



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

05/23/2023

 Date

****OFFICIAL USE ONLY****

PLANNING BOARD RECOMMENDATION/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. 09/16



APPLICATION FOR VARIANCE

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

Subject Property: 5851 State Hwy 100 E, Palm Coast, FL 23164

E. *Variance guidelines.* A variance may be granted, upon application, from the terms and provisions of this article as will not be contrary to the public health, safety, welfare and morals where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship. Such variances may be granted by the planning board in such individual case of unnecessary hardship upon a written finding that:

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or part, creates an unnecessary hardship; and

The development as a whole (which is how it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for - such is the hardship in this case.

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

The conditions were not created by the applicant - the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code

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

The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed - it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

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

The variance will be the minimum necessary to alleviate the hardship.



Owner's Authorization for Applicant/Agent

FLAGLER COUNTY, FLORIDA

1769 E. Moody Boulevard, Suite 105

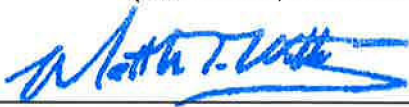
Bunnell, FL 32110

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

Application/Project # _____

Alann Engineering Group, Inc. _____, is hereby authorized TO ACT ON BEHALF OF Seminole Woods Investments, LLC, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Flagler County, Florida for an application for variance to impervious percentage requirement.

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

By: 
Signature of Owner

Matthew T. Williams
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)

7331 Office Park Place Suite 200
Mailing Address

321-254-2400

Melbourne FL 32940
City State Zip

STATE OF Florida

COUNTY OF Brevard

The foregoing was acknowledged before me this 22 day of May, 2023 by Matthew T. Williams 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.


Signature of Notary Public



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

Revised 5/08

Prepared by (and return to):

Michael P. Maguire, Esq.
Maguire Law Group
3300 Henderson Blvd., Suite 206A
Tampa, FL 33609

**CORRECTIVE DEED IS BEING RECORDED
TO CORRECT LEGAL DESCRIPTION
SHOWN ON O.R. BOOK 2769 PAGE 393**

Parcel Identification Number(s): 08-12-31-0650-000D0-0050

SPECIAL WARRANTY DEED

THIS INDENTURE is made and entered into as of the 6th day of April, 2023, by and between **FLAGLER PINES PROPERTIES, LLC**, a Florida limited liability company ("Grantor"), whose mailing address is 4 Lambert Cove, Flagler Beach, Florida 32136, and **SEMINOLE WOODS INVESTMENTS, LLC.**, a Florida limited liability company ("Grantee"), whose mailing address is 7331 Office Park Place, Suite 200, Melbourne, Florida 32940.

WITNESSETH, that Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold, alienated, remised, released, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alienate, remise, release, convey and confirm unto Grantee, and Grantee's heirs, successors and assigns forever, the following described real property in the County of Flagler, State of Florida, to-wit:

SEE **EXHIBIT A** ATTACHED HERETO
AND INCORPORATED HEREIN BY REFERENCE THERETO,

TOGETHER with all the tenements, hereditaments and appurtenances, and every privilege, right, title, interest and estate, reversion, remainder and easement thereto belonging or in anywise appertaining (collectively, the "Property").

SUBJECT TO the encumbrances and exceptions described on **Exhibit B** attached hereto and incorporated herein by reference thereto (collectively, "Permitted Exceptions"); provided, however, that neither Grantor nor Grantee intend to reimpose any Permitted Exceptions nor shall this conveyance operate to reimpose or extend any Permitted Exceptions.

THIS PROPERTY IS NOT THE HOMESTEAD OF GRANTOR.

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

And Grantor does hereby warrant that, subject to and except for the Permitted Exceptions, the title to the Property is free from all encumbrances made by Grantor, and that subject to and except for the Permitted Exceptions, Grantor will defend the same against the lawful claims and demands of all persons and entities claiming by, through, or under Grantor, but against none other.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE TO SPECIAL WARRANTY DEED

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

Signed, sealed and delivered
in the presence of:

FLAGLER PINES PROPERTIES, LLC,
a Florida limited liability company

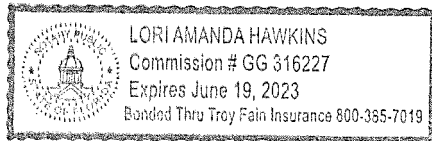
Lori Amanda Hawkins
Print Witness Name: Lori Amanda Hawkins

By: [Signature]
Print Name: James E. Gardner, Jr.
Its: Manager

[Signature]
Print Witness Name: [Signature]

STATE OF FLORIDA
COUNTY OF Flagler

The foregoing instrument was acknowledged before me by means of physical appearance or online notarization, this 6th day of March, 2023, by James E. Gardner, Jr., as Manager of **FLAGLER PINES PROPERTIES, LLC**, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced _____ as identification.



(Notary Seal)

Lori Amanda Hawkins
Notary Public (Signature)
Print Name: _____
My Commission Expires: _____

EXHIBIT A
Legal Description of Property

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 914, PAGE 84, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 89°09'05" WEST A DISTANCE OF 461.70 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 02°23'12" EAST A DISTANCE OF 270.13 FEET; THENCE SOUTH 89°09'20" WEST A DISTANCE OF 62.68 FEET; THENCE NORTH 00°47'58" WEST A DISTANCE OF 270.03 FEET TO A POINT ON THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 89°09'07" EAST A DISTANCE OF 55.20 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

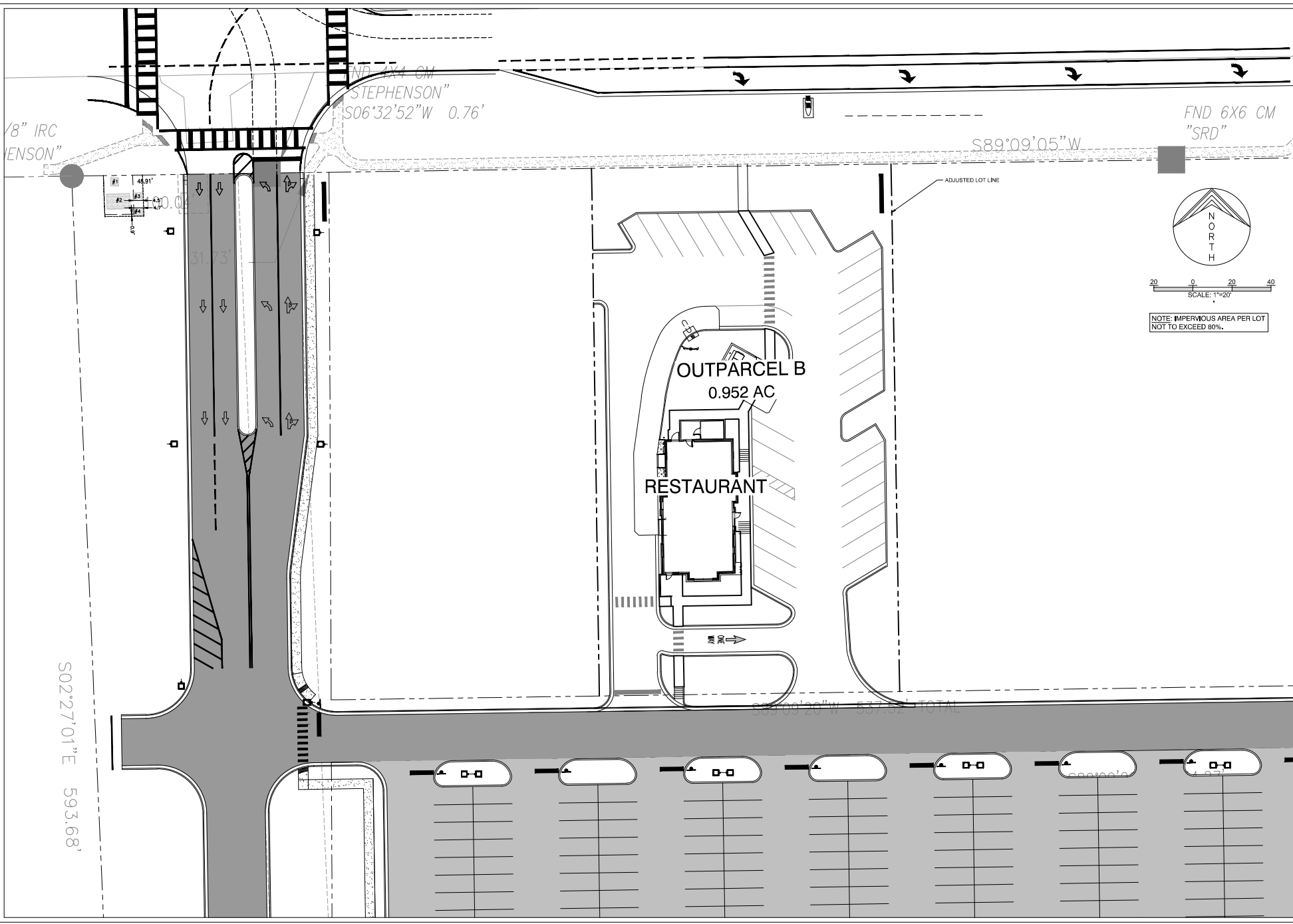
AND

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 914, PAGE 84, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 89°09'05" WEST A DISTANCE OF 556.89 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 00°47'58" EAST A DISTANCE OF 270.02 FEET; THENCE SOUTH 89°09'20" WEST A DISTANCE OF 537.52 FEET; THENCE NORTH 00°13'49" WEST A DISTANCE OF 270.00 FEET TO A POINT ON THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 89°09'05" EAST A DISTANCE OF 534.83 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

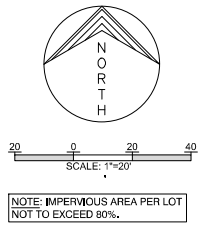
EXHIBIT B
Permitted Exceptions

Taxes and assessments for the year 2023 and subsequent years, which are not yet due and payable.



ALANN ENGINEERING GROUP, INC.
 CERTIFICATE NO. 181479
 880 W. UNIVERSITY ROAD, SUITE 113
 FLAGLER COUNTY, FLORIDA 32114
 TEL: (386) 873-7640
 FAX: (386) 873-9327

CORNERSTONE AT SEMINOLE WOODS
 FLAGLER COUNTY
 OUTPARCEL B - VARIANCE SITE PLAN



NO.	DATE	BY

DISCORR	DATE	SCALE

FILE	PROJECT
2111-1	2111-1

SHEET
C001

FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 6 / 21 / 2023

VARIANCE TO MAXIMUM IMPERVIOUS AREA AT 80% IN THE C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT

APPLICANT: Alann Engineering Group, Inc. / OWNER: Seminole Woods Investments, LLC

Distribution date: June 16, 2023

Project #: 2023050061

Application #: 3370

Attached are departmental comments regarding your submittal to Flagler County for the above referenced project. **Any questions regarding any of the comments should be addressed to the department providing the comment.**

Flagler County Building Department	386-313-4002
Flagler County Planning Department	386-313-4009
Flagler County Development Engineering	386-313-4082
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 at this time.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time.

REVIEWING DEPARTMENT: COUNTY ENGINEERING

No comments at this time.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. General Comment:

This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Commercial Subdivision meets the zoning requirements.

REVIEWING DEPARTMENT: E-911 STAFF

No comments at this time.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No comments at this time.

REVIEWING DEPARTMENT: FIRE INSPECTOR

Fire has no issues with this.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.
2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 District requirements.



June 23, 2023

Gina Lemon
Flagler County Planning Services
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110

RE: App # 3370 – Cornerstone at Seminole Woods: Lot B Variance
Project # 2023050061 / AR # 4111

Dear Gina,

We are in receipt of comments for the referenced project. These comments were generated during the TRC review of the project and delivered to us on June 16th, 2023. We have revised our plans and submitted the material below for your review and approval:

1. Responses to Staff Comments (this letter)
2. Revised Variance Application

We offer the following responses to staff comments:

DEVELOPMENT ENGINEERING

1. This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Commercial Subdivision meets the zoning requirements.

RESPONSE: Noted. The project as a whole has slightly less than 50% impervious area.

FIRE INSPECTOR

1. Fire has no issues with this.

RESPONSE: Noted.

PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.

RESPONSE: The impervious area shown is the maximum allowable since some of the out-parcel users are unknown.

2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 District requirements.

RESPONSE: Please see revised page 2 attached to the application.

Should you have any questions or require additional information, please advise.

Sincerely,
The Alann Engineering Group, Inc.



Kimberly A. Buck, P.E.
President

cc: File

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considering in whole or part, creates an unnecessary hardship; and

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17.A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, a basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

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

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

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

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

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

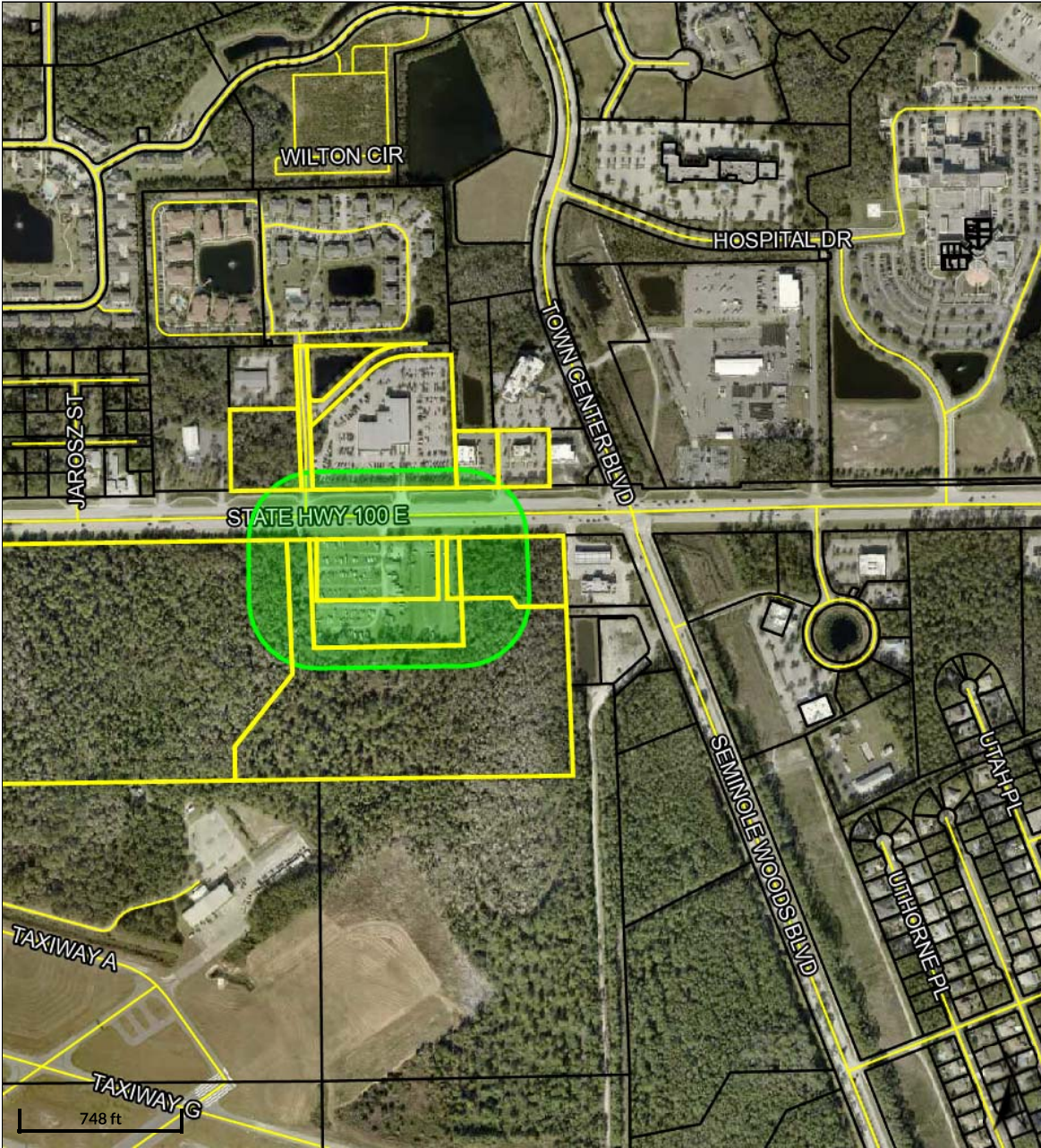
The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County,

Florida (“Annexation Agreement”). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City’s LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County’s LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant’s reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully requests that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

App #3370 - Variance



Overview



Legend

- Parcels
- Roads
- Streams and Rivers

Date created: 6/22/2023
Last Data Uploaded: 6/22/2023 8:10:35 AM

Developed by Schneider GEOSPATIAL

App #3370

Variance

ParcelId	OwnerName	OwnerAddress2	OwnerCityStZip
08-12-31-0650-000B0-0110	MCCORMICK 100 LLC	24 PORT ECHO LANE	PALM COAST, FL 32164
08-12-31-0650-000A0-0093	CITY OF PALM COAST	160 LAKE AVENUE	PALM COAST, FL 32164
08-12-31-5816-00000-0010	PAUL DUGGAL FLORIDA LLC	1212 WICKHAM AVE FL ST	MIDDLETOWN, NY 10940
08-12-31-5816-00000-0020	MDC COAST 17 LLC	11995 EL CAMINO REAL	SAN DIEGO, CA 92130
08-12-31-0650-000A0-0090	TLG LLC	5850 E HWY 100	PALM COAST, FL 32164
08-12-31-0650-000B0-0070	FLAGLER PINES PROPERTIES LLC	4 LAMBERT COVE	FLAGLER BEACH, FL 32136
08-12-31-0650-000D0-0051	SEMINOLE WOODS INVESTMENTS, LLC	7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940
08-12-31-0650-000D0-0050	BJ'S WHOLESALE CLUB, INC	350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0071	BJS WHOLESALE CLUB INC	350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0074	SEMINOLE WOODS INVESTMENTS, LLC	7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940

I hereby affirm mailed notice to each owner on 7 /24 /2023 for the Planning and Development Board meeting on 8 /8 /2023 at 6:00 pm.



Gina Lemon, Development Review Planner III

Growth Management Department
Planning & Development
1769 E. Moody Blvd, Bldg. 2
Bunnell, FL 32110



www.flaglercounty.org

Phone: (386)313-4009

Fax: (386)313-4109

July 24, 2023

SEMINOLE WOODS INVESTMENTS, LLC
7331 OFFICE PARK PLACE SUITE 200
MELBOURNE, FL 32940

RE: Application #3370 – Variance to Exceed Maximum Impervious Area in the
C-2 (General Commercial and Shopping Center) District

Dear Property Owner:

As owner of property within 300' of the property referenced herein, the Flagler County Planning Department, in accordance with Section 2.07.00 of the Flagler County Land Development Code, advises you that:

A request has been made by applicant Alann Engineering Group, Inc. on behalf of owner Seminole Woods Investment, LLC for a Variance to allow the maximum impervious area up to 80%, the minimum pervious area required in the C-2 District is a minimum of 30% on the subject property as identified proposed Parcel B, in the Preliminary Plat known as Cornerstone at Seminole Woods and known as Parcel Number: 08-12-31-0650-000D0-0051.

You are hereby notified that a public hearing before the **Flagler County Planning and Development Board**, required by law, will be held in the Flagler County Government Services Building, Board Chambers, at 1769 East Moody Boulevard, Building 2, Bunnell, Florida, on **August 8, 2023**, beginning at **6:00 p.m.** or as soon thereafter as possible.

You are welcome to attend and express your opinion.

Sincerely,

A handwritten signature in purple ink that reads "Gina Lemon".

Gina Lemon
Development Review Planner III

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDED TO APPEAL ANY DECISION BY THE BOARD, AGENCY OR COMMISSION WITHRESPECT 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 VERBATUM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTAMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

Andy Dance
District 1

Greg Hansen
District 2

David Sullivan
District 3

Leann Pennington
District 4

Donald O'Brien, Jr.
District 5

APPLICATION # 3370

NOTICE OF PUBLIC HEARING

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

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

August 8, 2023 @ 6:00 PM

REQUEST: **80% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**

Parcel Number: 08-12-31-0650-00000-0051
Zoning District: C-2 DISTRICT

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

For additional information visit web page at: www.flaglercounty.gov or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE

APPLICATION # 3374

NOTICE OF PUBLIC HEARING

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

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

August 8, 2023 @ 6:00 PM

REQUEST: **80% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**

Parcel Number: 08-12-31-0650-00000-0074
Zoning District: C-2 DISTRICT

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

For additional information visit web page at: www.flaglercounty.gov or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING/AGENDA ITEM #5**

SUBJECT: QUASI-JUDICIAL – Application #3371 – Request for a variance to exceed the maximum impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot A, Cornerstone at Seminole Woods. Parcel No. 08-12-31-0650-000D0-0051; 1.12+/- acres. Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc. (Project #2023050062).

DATE OF MEETING: July 11, 2023 August 8, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is to exceed the impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot A, Cornerstone at Seminole Woods. This proposed parcel is 1.12+/- acres in size, identified as Parcel #:08-12-31-0650-000D0-0051:



On May 23, 2023, Alann Engineering Group, Inc. submitted an application for a variance to exceed the maximum allowable impervious area. This request is prior to commencement of construction.

The subject property is described as proposed Lot A of the Cornerstone at Seminole Woods subdivision, the plat is at preliminary approval and not yet recorded in the Public Records of Flagler County, Florida.

This application was reviewed by the Technical Review Committee (TRC) at its June 21, 2023 meeting. The Technical Review Committee provided comments to be addressed by the applicant, and the applicant provided their response.

Public notice has been provided for this application according to Flagler County Land Development Code Section 2.07.00.

This agenda item is:

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

OPTIONS FOR THE BOARD:

APPROVAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3371 to exceed the impervious area up to a maximum of 80 percent on proposed Lot A, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051).

DENIAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have not been met and therefore denies Application #3371 to exceed the impervious area up to a maximum of 80 percent on proposed Lot A, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051).

CONTINUANCE: The Planning and Development Board continues the variance request on the basis that additional information is needed from staff or the applicant. Based on the presentation and the public hearing, the Board does not have sufficient information to be able to render a decision on the variance request. Continuing the variance request to a time and date certain will preserve public notice and provide an opportunity for staff or the applicant to provide additional information.

ATTACHMENTS:

1. Technical Staff Report
2. Application and supporting documents
3. TRC comments
4. Applicant's response to TRC comments
5. Public notice

**APPLICATION #3371
VARIANCE IMPERVIOUS AREA UP TO MAXIMUM OF 80%
IN THE C-2 DISTRICT
PROPOSED LOT A, CORNERSTONE AT SEMINOLE WOODS
TECHNICAL STAFF REPORT**

Application/Project #: 3371/2023050062

Address: Not assigned (Proposed Lot A, Cornerstone at Seminole Woods)

Owner: Seminole Woods Investments, LLC

Applicant: Alann Engineering Group, Inc.

Parcel #: Part of 08-12-31-0650-000D0-0051

Parcel Size: 1.12+/- acres

Legal Description: Proposed Lot A, Cornerstone at Seminole Woods

Existing Zoning and Land Use Classification:

Zoning: C-2 (General Commercial and Shopping Center) District

Land Use: Commercial High Intensity

Future Land Use Map Classification/Zoning of Surrounding Land:

North: State Road 100

East: City of Palm Coast commercial

South: Industrial/I (Industrial) zoning district

West: Commercial: High Intensity and Industrial/ C-2 (General Commercial and Shopping Center) and I (Industrial) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.17, *C-2 – General commercial and shopping center district*; Section 3.07.03, *Procedure for variances and special exceptions*; Section 3.07.03.E, *Variance guidelines*.

General description of request

Variance Guideline Analysis

LDC Section 3.07.03.E, *Variance guidelines*, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant's statements (included below and attached in their entirety) and staff's analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and*

The development as a whole (which is now it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for – such is the hardship in this case.

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC, Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than the 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

Staff analysis: The County's C-2 (General commercial and shopping center) zoning district provides dimensional requirements for shopping centers (where tenants lease

space held under common ownership) based on project size, while general commercial development (where parcels are individually described and separately owned) is based on lot size. Regardless of the shopping center or general commercial approach within the C-2 zoning district, the minimum pervious area is set as thirty (30) percent. Using the inverse of the minimum pervious area, the maximum impervious area would be set at 70% of the parcel area.

The County's Land Development Code does not provide for a master planned development – inclusive of common elements – outside of a Planned Unit Development (PUD). It was originally anticipated that the BJ's Wholesale Club parcel (Proposed Lot F) would begin its vertical development through a County-issued building permit, with the Cornerstone at Seminole Woods plat to be completed prior to annexation into the City of Palm Coast. Individual building permits for the outparcels were to follow final plat approval, and the BJ's permit would be completed by the County following annexation. Aside from discussions with the developer, the County has no formal agreement with the developer as to process. The timing of the development of the Cornerstone project is (for the most part) to be guided by the Pre-Annexation Agreement between the developer and the City. The County is not a party to the Pre-Annexation Agreement, and would not enforce any of its provisions inclusive of the timing of development.

However, the developer has opted instead to pursue development of individual lots now prior to annexation. While the County is not opposed to this approach, it creates the current need for the variance for each of the proposed lots since stormwater is handled through a master stormwater system, enabling each lot to maximize its buildout as would be consistent with a master planned development (as opposed to a single commercial use as is anticipated by the C-2 zoning district).

As a forward-looking statement, development of the remaining proposed lots will become problematic without an approved final plat. As an example, the proposed Lot B is part of Parcel No. 08-12-31-0650-000D0-0051. Proposed Lots A, B, C, and part of D are all within Parcel No. 08-12-31-0650-000D0-0051. The County can permit single developments occurring on identified parcels, but multiple developments on a single parcel – without a plat – is not permitted by the County's Land Development Code.

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

Applicant's response: The conditions were not created by the applicant – the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria

for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

Staff analysis: Had the project annexed into the City as originally discussed, the variance to exceed the impervious area would not have been necessary. The delay in annexation – and the permit submittal for the proposed outparcels – have made the variance necessary.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code.

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

each of the lots were to satisfy City requirements, not County requirements. The delay in the annexation into the City has prompted the need for the variance.

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

Applicant's response: The variance will be the minimum necessary to alleviate the hardship.

The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe that it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

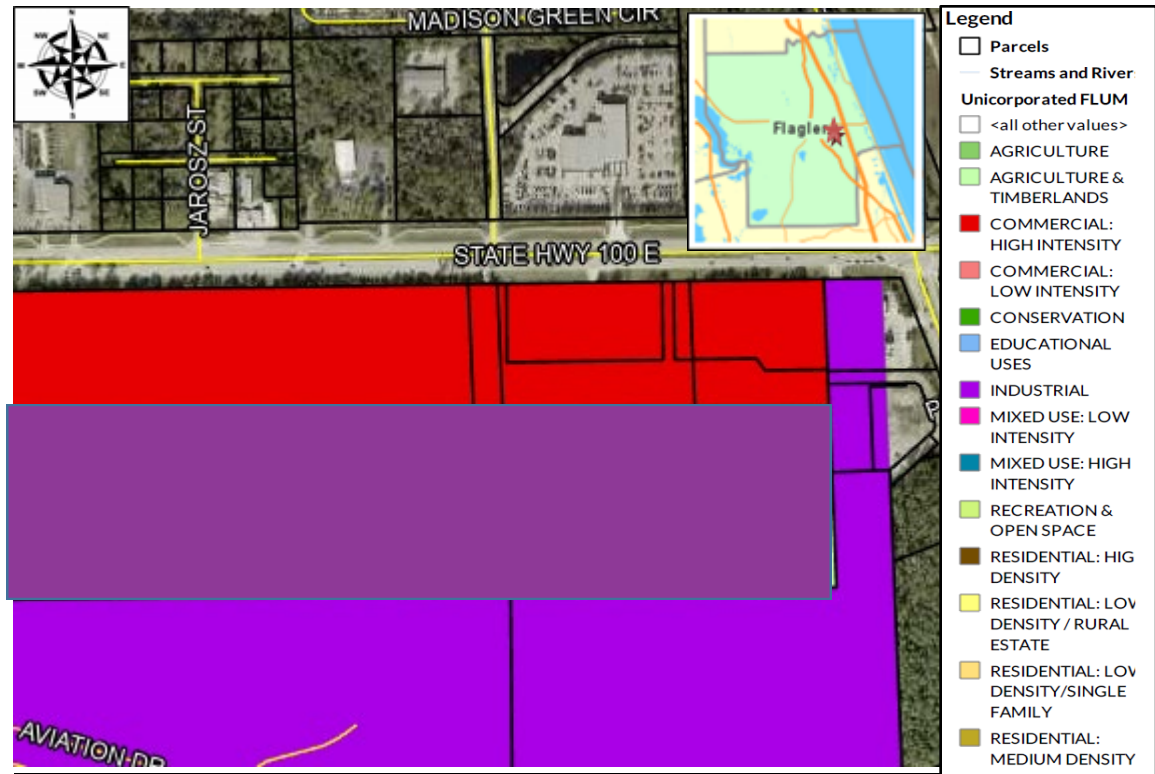
It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County, Florida ("Annexation Agreement"). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City's LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County's LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant's reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully request that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

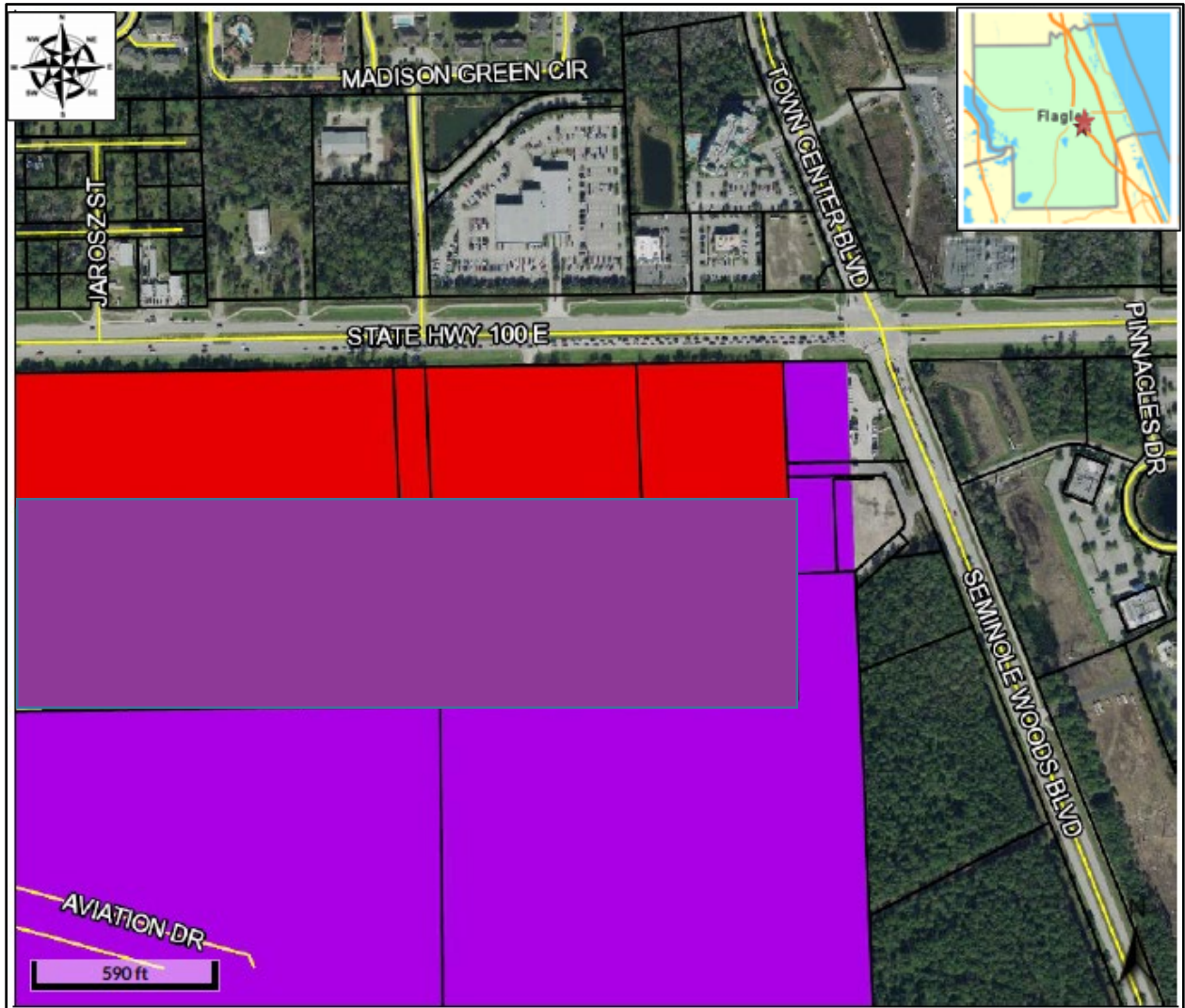
Staff analysis: The requested variance is the minimum variance needed to alleviate the hardship. County staff does not agree with the applicant's interpretation of the

applicability of the C-2 zoning's dimensional requirements. As for the Pre-Annexation Agreement, the developer is dependent on the City for its utilities regardless of whether or not the applicant was a party to the Settlement Agreement. The County does not separately have available utilities to serve the proposed project.

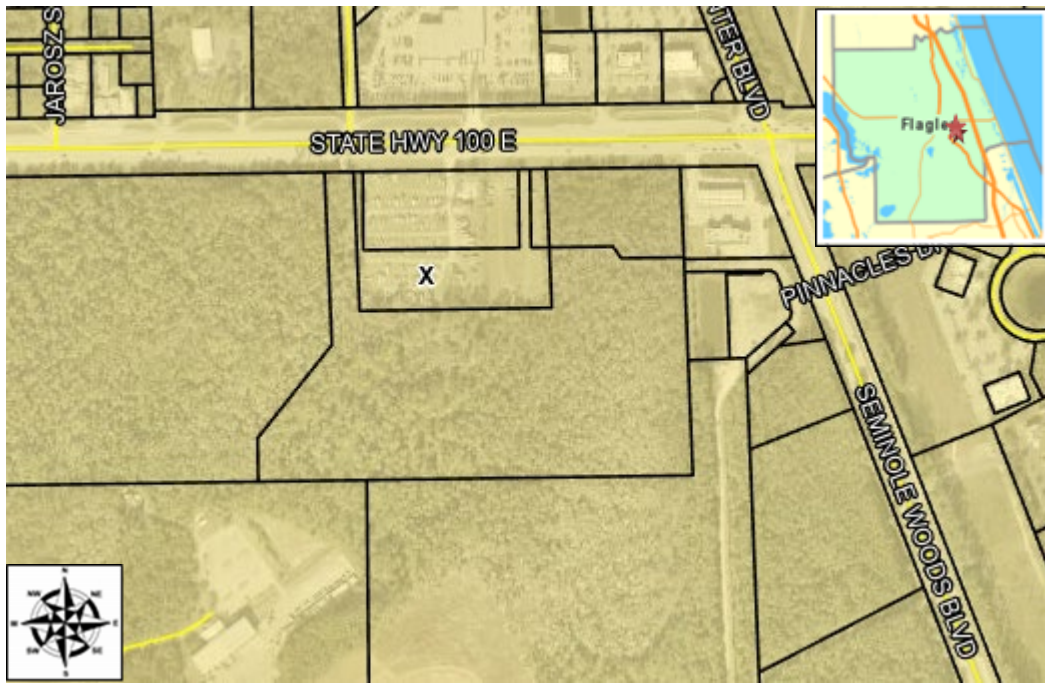
Future Land Use



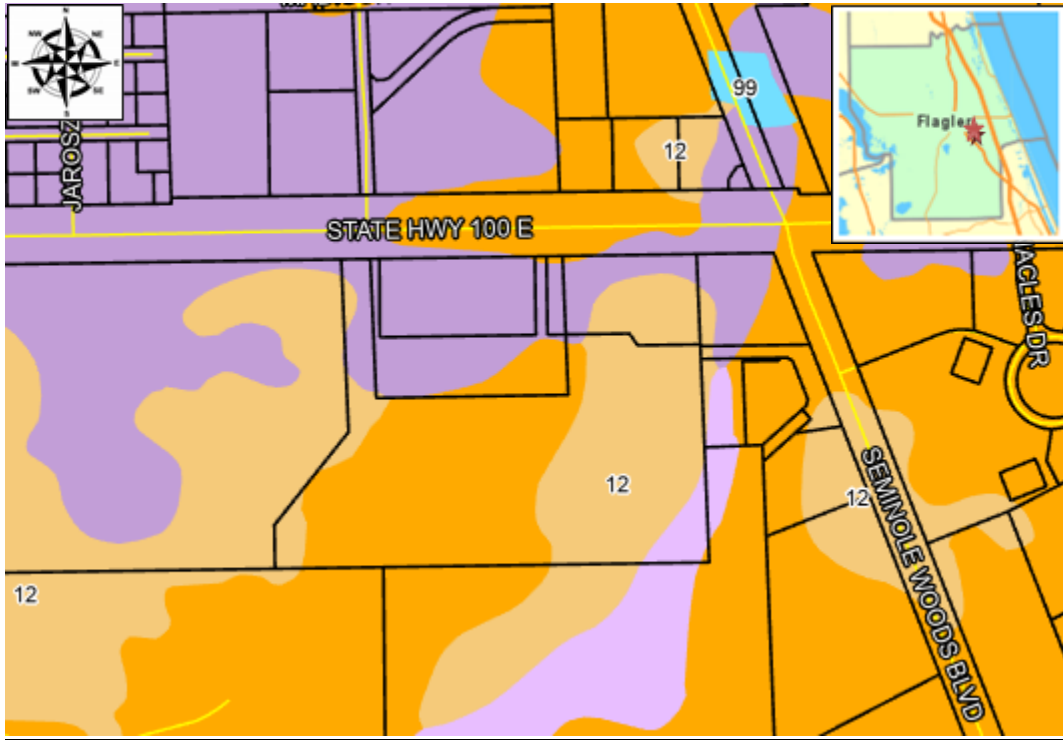
Zoning



Flood Zone

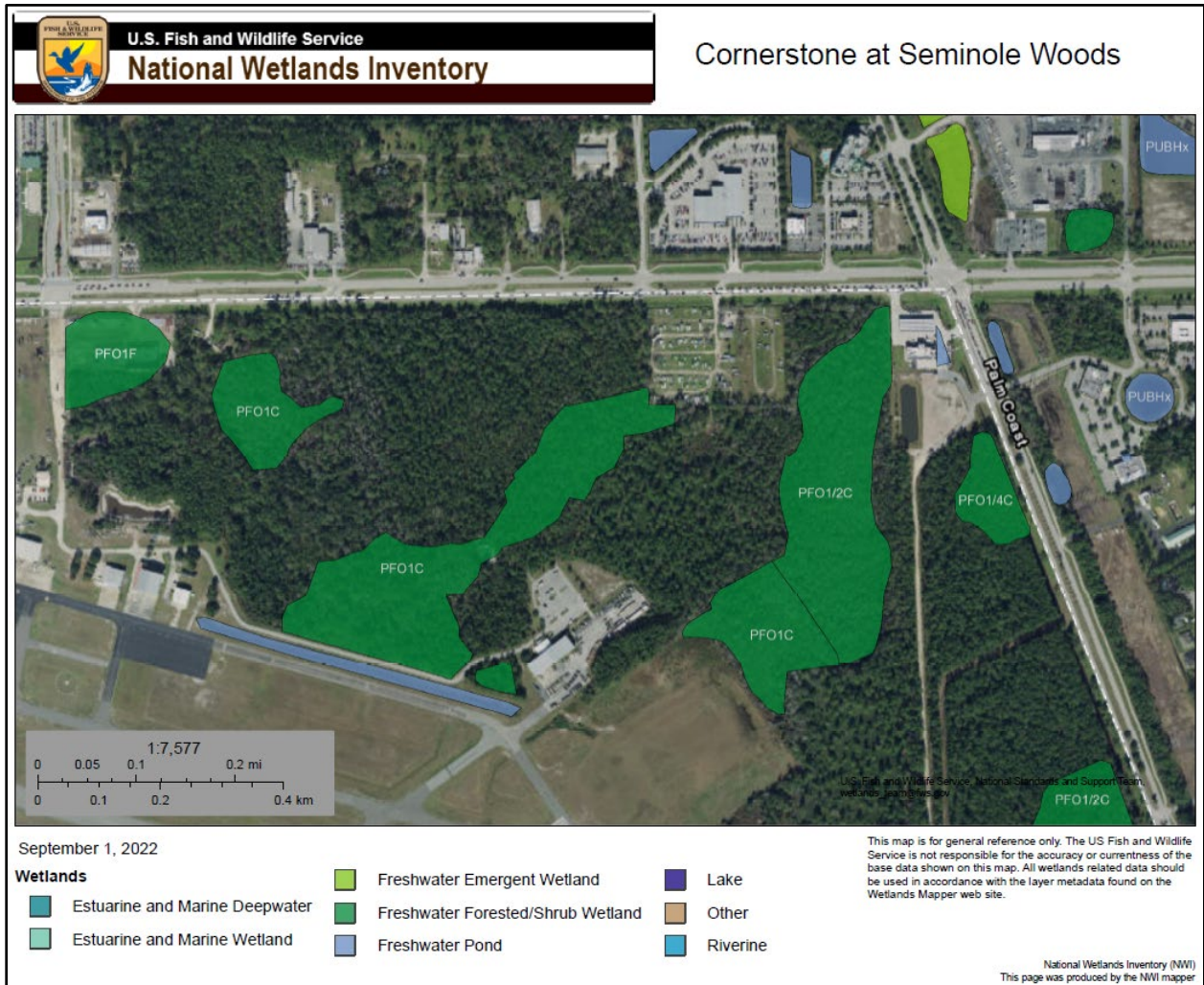


Soils



Soil Types
12 Placid, Basinger and St Johns soils, depressional
19 Valkaria fine sand
21 Smyrna fine sand

Wetlands



**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING/AGENDA ITEM #5**

SUBJECT: QUASI-JUDICIAL – Application #3371 – Request for a variance to exceed the maximum impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot A, Cornerstone at Seminole Woods. Parcel No. 08-12-31-0650-000D0-0051; 1.12+/- acres. Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc. (Project #2023050062).

DATE OF MEETING: July 11, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is to exceed the impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot A, Cornerstone at Seminole Woods. This proposed parcel is 1.12+/- acres in size, identified as Parcel #:08-12-31-0650-000D0-0051:



On May 23, 2023, Alann Engineering Group, Inc. submitted an application for a variance to exceed the maximum allowable impervious area. This request is prior to commencement of construction.

The subject property is described as proposed Lot A of the Cornerstone at Seminole Woods subdivision, the plat is at preliminary approval and not yet recorded in the Public Records of Flagler County, Florida.

This application was reviewed by the Technical Review Committee (TRC) at its June 21, 2023 meeting. The Technical Review Committee provided comments to be addressed by the applicant, and the applicant provided their response.

Public notice has been provided for this application according to Flagler County Land Development Code Section 2.07.00.

This agenda item is:

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

OPTIONS FOR THE BOARD:

APPROVAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3371 to exceed the impervious area up to a maximum of 80 percent on proposed Lot A, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051).

DENIAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have not been met and therefore denies Application #3371 to exceed the impervious area up to a maximum of 80 percent on proposed Lot A, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051).

CONTINUANCE: The Planning and Development Board continues the variance request on the basis that additional information is needed from staff or the applicant. Based on the presentation and the public hearing, the Board does not have sufficient information to be able to render a decision on the variance request. Continuing the variance request to a time and date certain will preserve public notice and provide an opportunity for staff or the applicant to provide additional information.

ATTACHMENTS:

1. Technical Staff Report
2. Application and supporting documents
3. TRC comments
4. Applicant's response to TRC comments
5. Public notice

**APPLICATION #3371
VARIANCE IMPERVIOUS AREA UP TO MAXIMUM OF 80%
IN THE C-2 DISTRICT
PROPOSED LOT A, CORNERSTONE AT SEMINOLE WOODS
TECHNICAL STAFF REPORT**

Application/Project #: 3371/2023050062

Address: Not assigned (Proposed Lot A, Cornerstone at Seminole Woods)

Owner: Seminole Woods Investments, LLC

Applicant: Alann Engineering Group, Inc.

Parcel #: Part of 08-12-31-0650-000D0-0051

Parcel Size: 1.12+/- acres

Legal Description: Proposed Lot A, Cornerstone at Seminole Woods

Existing Zoning and Land Use Classification:

Zoning: C-2 (General Commercial and Shopping Center) District

Land Use: Commercial High Intensity

Future Land Use Map Classification/Zoning of Surrounding Land:

North: State Road 100

East: City of Palm Coast commercial

South: Industrial/I (Industrial) zoning district

West: Commercial: High Intensity and Industrial/ C-2 (General Commercial and Shopping Center) and I (Industrial) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.17, C-2 – *General commercial and shopping center district*; Section 3.07.03, *Procedure for variances and special exceptions*; Section 3.07.03.E, *Variance guidelines*.

General description of request

Variance Guideline Analysis

LDC Section 3.07.03.E, *Variance guidelines*, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant's statements (included below and attached in their entirety) and staff's analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and*

The development as a whole (which is now it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for – such is the hardship in this case.

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC, Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than the 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

Staff analysis: The County's C-2 (General commercial and shopping center) zoning district provides dimensional requirements for shopping centers (where tenants lease

space held under common ownership) based on project size, while general commercial development (where parcels are individually described and separately owned) is based on lot size. Regardless of the shopping center or general commercial approach within the C-2 zoning district, the minimum pervious area is set as thirty (30) percent. Using the inverse of the minimum pervious area, the maximum impervious area would be set at 70% of the parcel area.

The County's Land Development Code does not provide for a master planned development – inclusive of common elements – outside of a Planned Unit Development (PUD). It was originally anticipated that the BJ's Wholesale Club parcel (Proposed Lot F) would begin its vertical development through a County-issued building permit, with the Cornerstone at Seminole Woods plat to be completed prior to annexation into the City of Palm Coast. Individual building permits for the outparcels were to follow final plat approval, and the BJ's permit would be completed by the County following annexation. Aside from discussions with the developer, the County has no formal agreement with the developer as to process. The timing of the development of the Cornerstone project is (for the most part) to be guided by the Pre-Annexation Agreement between the developer and the City. The County is not a party to the Pre-Annexation Agreement, and would not enforce any of its provisions inclusive of the timing of development.

However, the developer has opted instead to pursue development of individual lots now prior to annexation. While the County is not opposed to this approach, it creates the current need for the variance for each of the proposed lots since stormwater is handled through a master stormwater system, enabling each lot to maximize its buildout as would be consistent with a master planned development (as opposed to a single commercial use as is anticipated by the C-2 zoning district).

As a forward-looking statement, development of the remaining proposed lots will become problematic without an approved final plat. As an example, the proposed Lot B is part of Parcel No. 08-12-31-0650-000D0-0051. Proposed Lots A, B, C, and part of D are all within Parcel No. 08-12-31-0650-000D0-0051. The County can permit single developments occurring on identified parcels, but multiple developments on a single parcel – without a plat – is not permitted by the County's Land Development Code.

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

Applicant's response: The conditions were not created by the applicant – the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria

for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

Staff analysis: Had the project annexed into the City as originally discussed, the variance to exceed the impervious area would not have been necessary. The delay in annexation – and the permit submittal for the proposed outparcels – have made the variance necessary.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code.

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

Staff analysis: Hindsight as to the intended pace of development would have made the Planned Unit Development (PUD) and completion of the subdivision plat a more prudent decision instead of multiple variances. Even with the need for the mix of variances for this project, the approval does not cause substantial detriment to the public health, welfare, safety, and morals of the community.

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

Applicant's response: The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed – it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

Staff analysis: The proposed use is a permitted use in the C-2 zoning district. Granting the variance would not permit a use other than those listed within the C-2 zoning district.

County staff disagrees with the applicant's assertion that the County missed the impervious limit in its prior reviews. Impervious area – like other dimensional requirements – is determined at the site plan level for each parcel's development, something that was not previously contemplated (or approved) through prior reviews by the County. For example, a proposed restaurant – and its layout – was not approved by the County through the preliminary plat. Specificity comes through successive submittals and review (and approval) steps. And as a final point, the development of individual lots and their conformity to the County's requirements was viewed as moot by the County due to the pending annexation: the development of

each of the lots were to satisfy City requirements, not County requirements. The delay in the annexation into the City has prompted the need for the variance.

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

Applicant's response: The variance will be the minimum necessary to alleviate the hardship.

The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe that it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

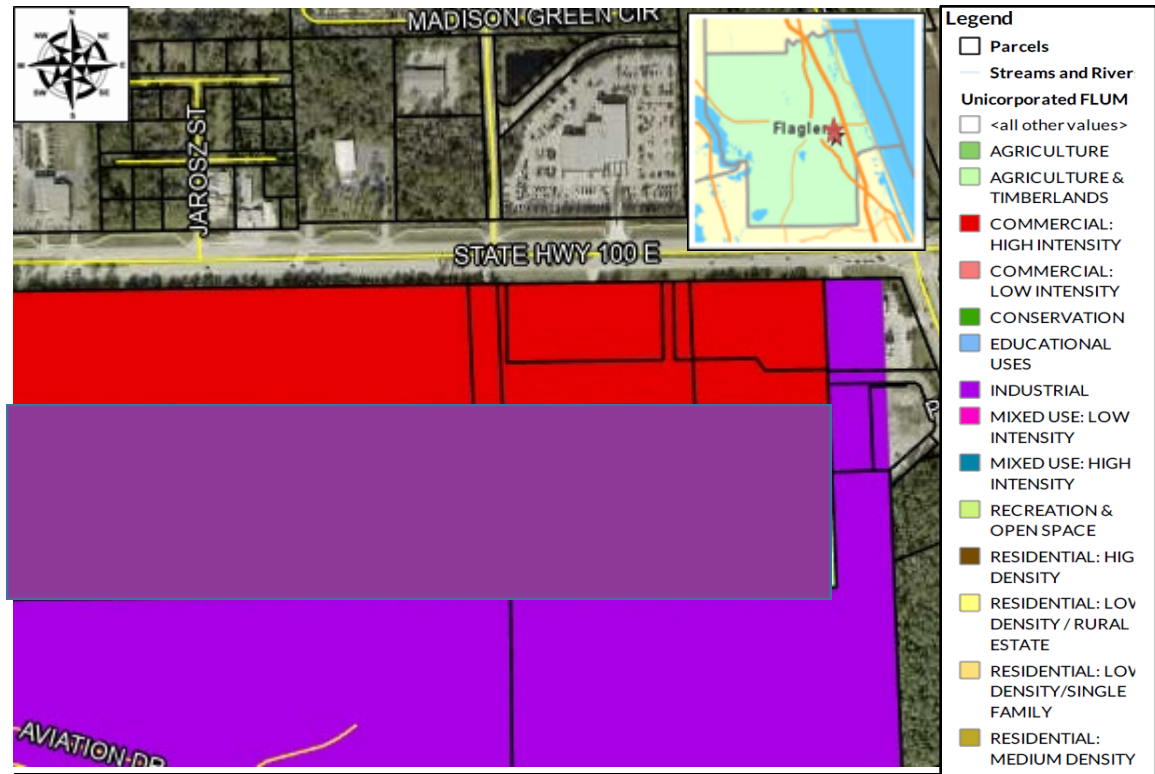
It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County, Florida ("Annexation Agreement"). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City's LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County's LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant's reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully request that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

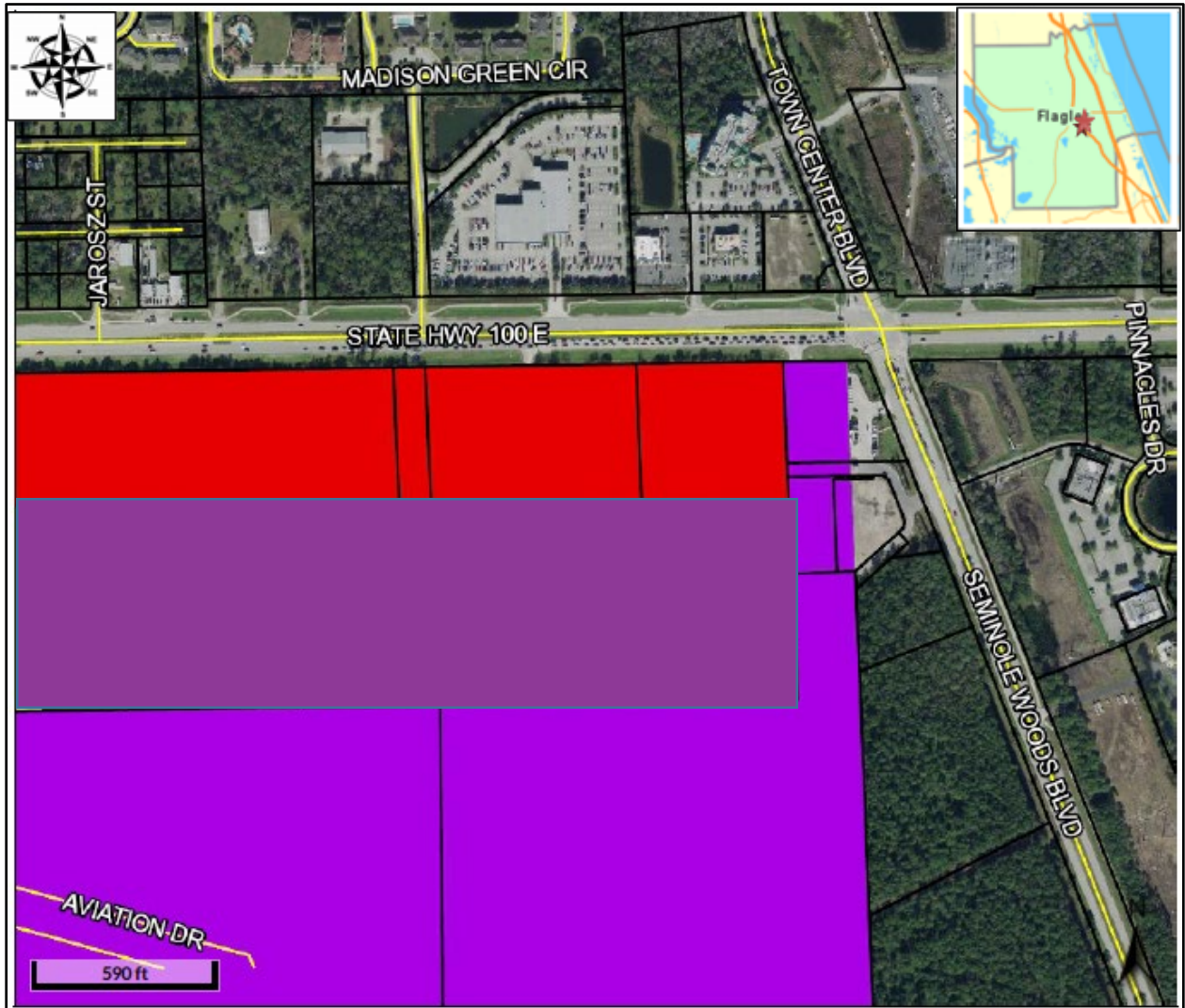
Staff analysis: The requested variance is the minimum variance needed to alleviate the hardship. County staff does not agree with the applicant's interpretation of the

applicability of the C-2 zoning's dimensional requirements. As for the Pre-Annexation Agreement, the developer is dependent on the City for its utilities regardless of whether or not the applicant was a party to the Settlement Agreement. The County does not separately have available utilities to serve the proposed project.

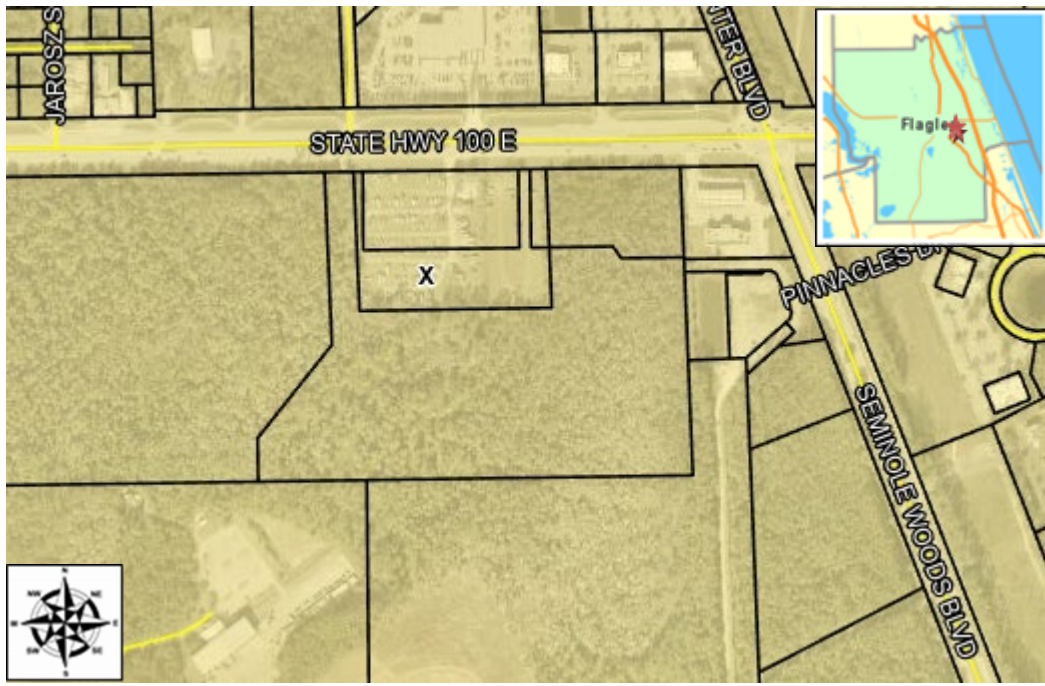
Future Land Use



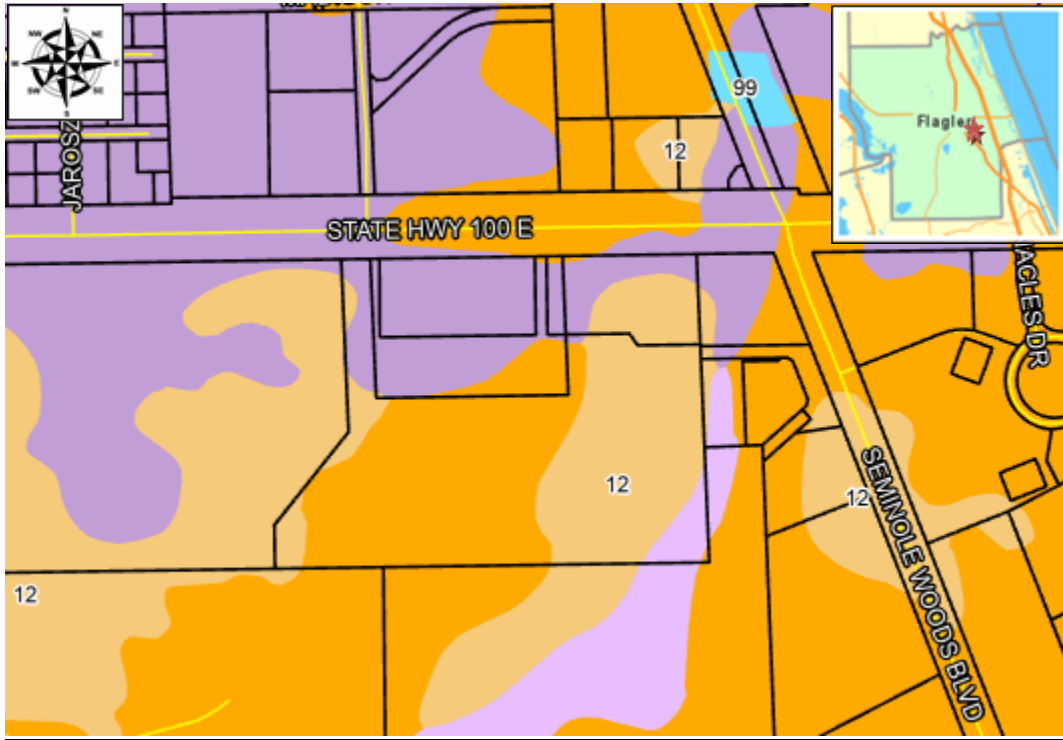
Zoning



Flood Zone



Soils



Soil Types
12 Placid, Basinger and St Johns soils, depressional
19 Valkaria fine sand
21 Smyrna fine sand

Staff analysis: Hindsight as to the intended pace of development would have made the Planned Unit Development (PUD) and completion of the subdivision plat a more prudent decision instead of multiple variances. Even with the need for the mix of variances for this project, the approval does not cause substantial detriment to the public health, welfare, safety, and morals of the community.

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

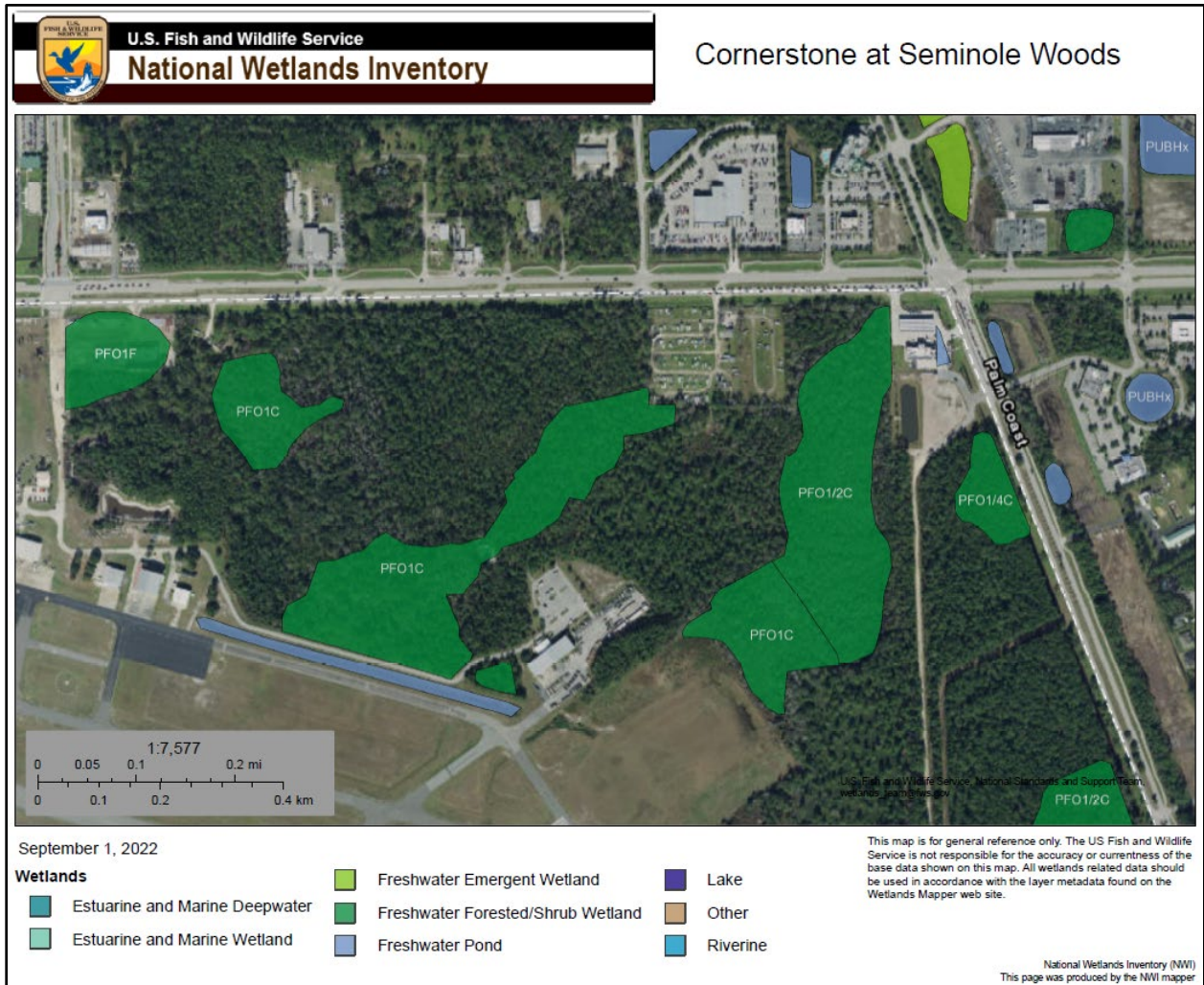
Applicant's response: The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed – it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

Staff analysis: The proposed use is a permitted use in the C-2 zoning district. Granting the variance would not permit a use other than those listed within the C-2 zoning district.

County staff disagrees with the applicant's assertion that the County missed the impervious limit in its prior reviews. Impervious area – like other dimensional requirements – is determined at the site plan level for each parcel's development, something that was not previously contemplated (or approved) through prior reviews by the County. For example, a proposed restaurant – and its layout – was not approved by the County through the preliminary plat. Specificity comes through successive submittals and review (and approval) steps. And as a final point, the development of individual lots and their conformity to the County's requirements was viewed as moot by the County due to the pending annexation: the development of

Wetlands





APPLICATION FOR VARIANCE

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

Application/Project #: 3371 / 2023050062

PROPERTY OWNER(S)	Name(s): Matthew Williams, Seminole Woods Investments, LLC		
	Mailing Address: 7331 Office Park Pl., Ste. 200		
	City: Melbourne	State: FL	Zip: 32940
	Telephone Number 321-254-2400		Fax Number n/a

APPLICANT/AGENT	Name(s): Kimberly A. Buck, Alann Engineering Group, Inc.		
	Mailing Address: 880 Airport Rd., Suite 113		
	City: Ormond Beach	State: FL	Zip: 32174
	Telephone Number 386-673-7640		Fax Number n/a
	E-Mail Address: kim.buck@ae-group.com		

SUBJECT PROPERTY	SITE LOCATION (street address):		5843 State Hwy 100 E, Palm Coast, FL 23164
	LEGAL DESCRIPTION: (briefly describe, do not use "see attached")		Parcel of land located in Sec 8, T 12 S, R 31 E, in Flagler County, FL.
	Parcel # (tax ID #):		08-12-31-0650-000D0-0051
	Parcel Size:		Lot A: 1.12 Acres
	Current Zoning Classification:		Planned Unit Development
	Current Future Land Use Designation		Commercial: High Intensity
	Subject to A1A Scenic Corridor IDO?		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Relief Requested: To allow for an increase of impervious area to 80%.



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

5/23/2023

 Date

****OFFICIAL USE ONLY****

PLANNING BOARD RECOMMENDATION/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. 09/16



APPLICATION FOR VARIANCE

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

Subject Property: 5843 State Hwy 100 E, Palm Coast, FL 23164

E. *Variance guidelines.* A variance may be granted, upon application, from the terms and provisions of this article as will not be contrary to the public health, safety, welfare and morals where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship. Such variances may be granted by the planning board in such individual case of unnecessary hardship upon a written finding that:

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or part, creates an unnecessary hardship; and

The development as a whole (which is how it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for - such is the hardship in this case.

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

The conditions were not created by the applicant - the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code

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

The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed - it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

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

The variance will be the minimum necessary to alleviate the hardship.



Owner's Authorization for Applicant/Agent

FLAGLER COUNTY, FLORIDA

1769 E. Moody Boulevard, Suite 105

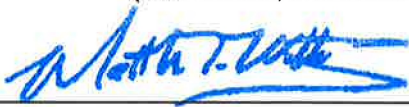
Bunnell, FL 32110

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

Application/Project # _____

Alann Engineering Group, Inc. _____, is hereby authorized TO ACT ON BEHALF OF Seminole Woods Investments, LLC, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Flagler County, Florida for an application for variance to impervious percentage requirement.

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

By: 
Signature of Owner

Matthew T. Williams
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)

7331 Office Park Place Suite 200
Mailing Address

321-254-2400

Melbourne FL 32940
City State Zip

STATE OF Florida

COUNTY OF Brevard

The foregoing was acknowledged before me this 22 day of May, 2023 by Matthew T. Williams 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.


Signature of Notary Public



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

Revised 5/08

Prepared by (and return to):

Michael P. Maguire, Esq.
Maguire Law Group
3300 Henderson Blvd., Suite 206A
Tampa, FL 33609

**CORRECTIVE DEED IS BEING RECORDED
TO CORRECT LEGAL DESCRIPTION
SHOWN ON O.R. BOOK 2769 PAGE 393**

Parcel Identification Number(s): 08-12-31-0650-000D0-0050

SPECIAL WARRANTY DEED

THIS INDENTURE is made and entered into as of the 6th day of April, 2023, by and between **FLAGLER PINES PROPERTIES, LLC**, a Florida limited liability company ("Grantor"), whose mailing address is 4 Lambert Cove, Flagler Beach, Florida 32136, and **SEMINOLE WOODS INVESTMENTS, LLC.**, a Florida limited liability company ("Grantee"), whose mailing address is 7331 Office Park Place, Suite 200, Melbourne, Florida 32940.

WITNESSETH, that Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold, alienated, remised, released, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alienate, remise, release, convey and confirm unto Grantee, and Grantee's heirs, successors and assigns forever, the following described real property in the County of Flagler, State of Florida, to-wit:

SEE **EXHIBIT A** ATTACHED HERETO
AND INCORPORATED HEREIN BY REFERENCE THERETO,

TOGETHER with all the tenements, hereditaments and appurtenances, and every privilege, right, title, interest and estate, reversion, remainder and easement thereto belonging or in anywise appertaining (collectively, the "Property").

SUBJECT TO the encumbrances and exceptions described on **Exhibit B** attached hereto and incorporated herein by reference thereto (collectively, "Permitted Exceptions"); provided, however, that neither Grantor nor Grantee intend to reimpose any Permitted Exceptions nor shall this conveyance operate to reimpose or extend any Permitted Exceptions.

THIS PROPERTY IS NOT THE HOMESTEAD OF GRANTOR.

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

And Grantor does hereby warrant that, subject to and except for the Permitted Exceptions, the title to the Property is free from all encumbrances made by Grantor, and that subject to and except for the Permitted Exceptions, Grantor will defend the same against the lawful claims and demands of all persons and entities claiming by, through, or under Grantor, but against none other.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE TO SPECIAL WARRANTY DEED

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

Signed, sealed and delivered
in the presence of:

FLAGLER PINES PROPERTIES, LLC,
a Florida limited liability company

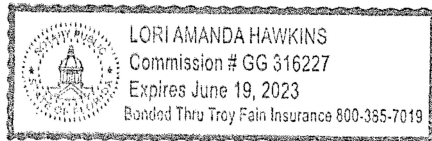
Lori Amanda Hawkins
Print Witness Name: Lori Amanda Hawkins

By: [Signature]
Print Name: James E. Gardner, Jr.
Its: Manager

[Signature]
Print Witness Name: [Signature]

STATE OF FLORIDA
COUNTY OF Flagler

The foregoing instrument was acknowledged before me by means of physical appearance or online notarization, this 6th day of March, 2023, by James E. Gardner, Jr., as Manager of **FLAGLER PINES PROPERTIES, LLC**, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced _____ as identification.



(Notary Seal)

Lori Amanda Hawkins
Notary Public (Signature)
Print Name:
My Commission Expires: _____

EXHIBIT A
Legal Description of Property

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 914, PAGE 84, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 89°09'05" WEST A DISTANCE OF 461.70 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 02°23'12" EAST A DISTANCE OF 270.13 FEET; THENCE SOUTH 89°09'20" WEST A DISTANCE OF 62.68 FEET; THENCE NORTH 00°47'58" WEST A DISTANCE OF 270.03 FEET TO A POINT ON THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 89°09'07" EAST A DISTANCE OF 55.20 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

AND

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 914, PAGE 84, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 89°09'05" WEST A DISTANCE OF 556.89 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 00°47'58" EAST A DISTANCE OF 270.02 FEET; THENCE SOUTH 89°09'20" WEST A DISTANCE OF 537.52 FEET; THENCE NORTH 00°13'49" WEST A DISTANCE OF 270.00 FEET TO A POINT ON THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 89°09'05" EAST A DISTANCE OF 534.83 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

EXHIBIT B
Permitted Exceptions

Taxes and assessments for the year 2023 and subsequent years, which are not yet due and payable.

ALAIN ENGINEERING
 GROUP, INC.
 1100 S. UNIVERSITY BLVD.
 SUITE 113
 BOCA RATON, FL 33432
 TEL: (561) 993-7640
 FAX: (561) 993-9327



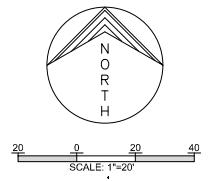
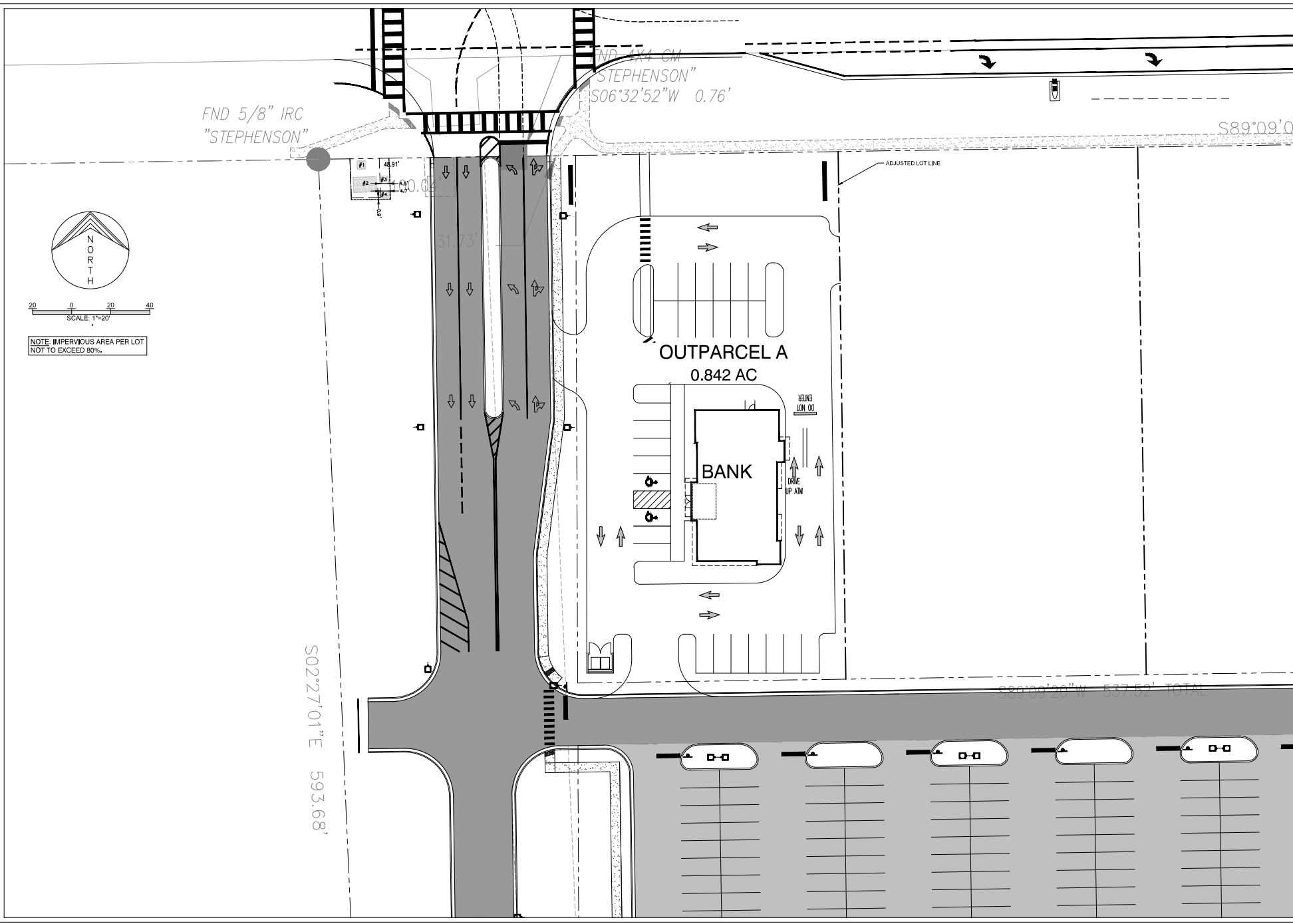
CORNERSTONE AT SEMINOLE WOODS
 FLAGLER COUNTY
 OUTPARCEL A - VARIANCE SITE PLAN

NO.	DATE	BY

DISCORR	FILE	DATE	SCALE

DISCORR	FILE	DATE	SCALE

SHEET
C001



NOTE: IMPERVIOUS AREA PER LOT
 NOT TO EXCEED 80%.

NOT TO BE USED WITHOUT THE SEAL OF A PROFESSIONAL ENGINEER

FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 6 / 21 / 2023

VARIANCE TO MAXIMUM IMPERVIOUS AREA AT 80% IN THE C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT

APPLICANT: Alann Engineering Group, Inc. / OWNER: Seminole Woods Investments, LLC

Distribution date: June 16, 2023

Project #: 2023050062

Application #: 3371

Attached are departmental comments regarding your submittal to Flagler County for the above referenced project. **Any questions regarding any of the comments should be addressed to the department providing the comment.**

Flagler County Building Department	386-313-4002
Flagler County Planning Department	386-313-4009
Flagler County Development Engineering	386-313-4082
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 at this time.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time.

REVIEWING DEPARTMENT: COUNTY ENGINEERING

No comments at this time.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. General Comment:

This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Commercial Subdivision meets the zoning requirements.

REVIEWING DEPARTMENT: E-911 STAFF

No comments at this time.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No comments at this time.

REVIEWING DEPARTMENT: FIRE INSPECTOR

1. Fire has no issues with this.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.
2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 District requirements.



June 23, 2023

Gina Lemon
Flagler County Planning Services
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110

RE: App # 3371 – Cornerstone at Seminole Woods: Lot A Variance
Project # 2023050062 / AR # 4112

Dear Gina,

We are in receipt of comments for the referenced project. These comments were generated during the TRC review of the project and delivered to us on June 16th, 2023. We have revised our plans and submitted the material below for your review and approval:

1. Responses to Staff Comments (this letter)
2. Revised Variance Application

We offer the following responses to staff comments:

DEVELOPMENT ENGINEERING

1. This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Commercial Subdivision meets the zoning requirements.

RESPONSE: Noted. The project as a whole has slightly less than 50% impervious area.

FIRE INSPECTOR

1. Fire has no issues with this.

RESPONSE: Noted.

PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.

RESPONSE: The impervious area shown is the maximum allowable since some of the out-parcel users are unknown.

2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 District requirements.

RESPONSE: Please see revised page 2 attached to the application.

Should you have any questions or require additional information, please advise.

Sincerely,
The Alann Engineering Group, Inc.



Kimberly A. Buck, P.E.
President

cc: File

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considering in whole or part, creates an unnecessary hardship; and

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17.A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, a basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

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

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

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

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

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

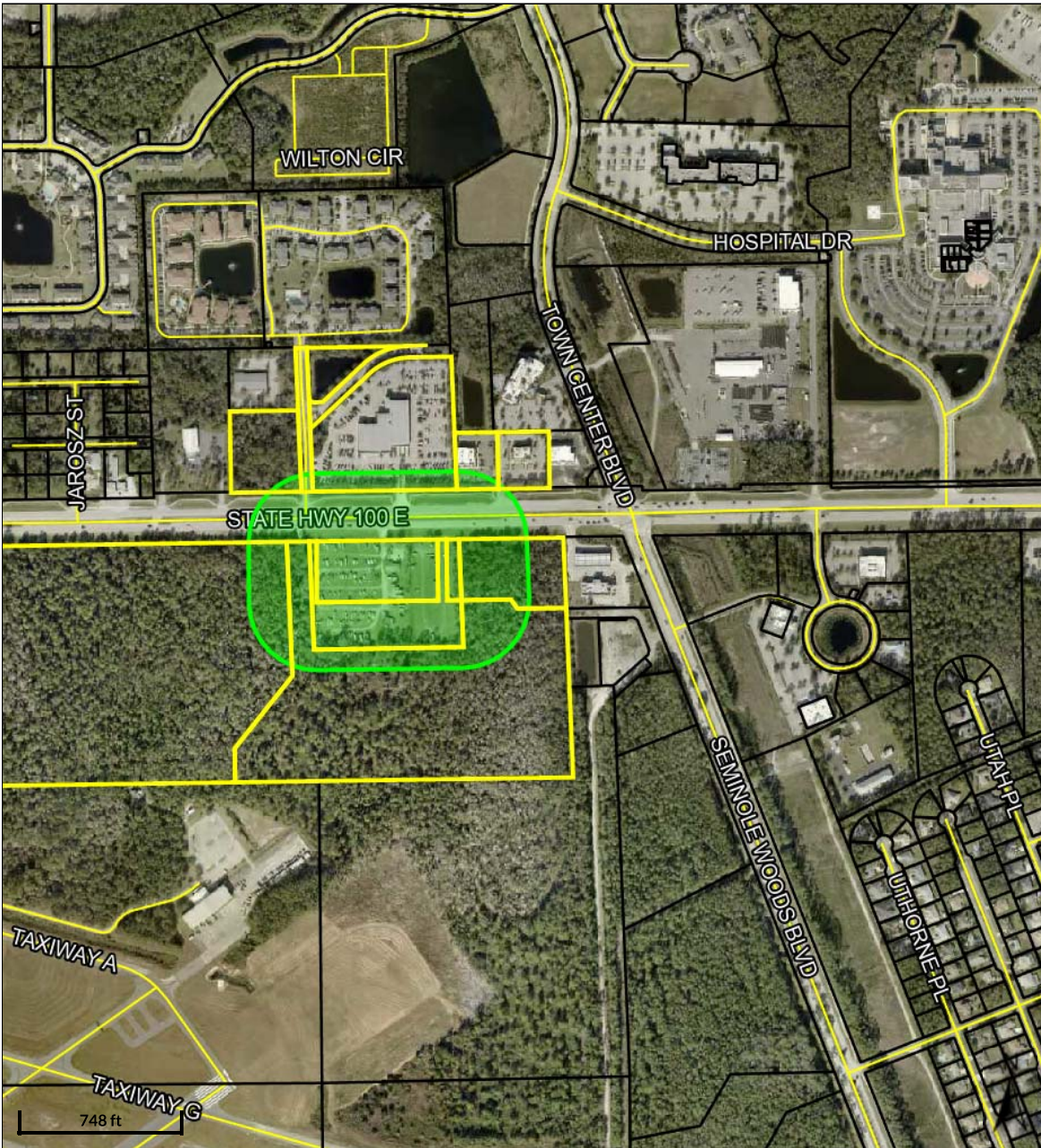
The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County,

Florida (“Annexation Agreement”). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City’s LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County’s LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant’s reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully requests that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

App #3371 - Variance



Overview



Legend

- Parcels
- Roads
- Streams and Rivers

Date created: 6/22/2023

Last Data Uploaded: 6/22/2023 8:10:35 AM

Developed by Schneider GEOSPATIAL

App #3371

Variance

ParcelId	OwnerName	OwnerAddress2	OwnerCityStZip
08-12-31-0650-000B0-0110	MCCORMICK 100 LLC	24 PORT ECHO LANE	PALM COAST, FL 32164
08-12-31-0650-000A0-0093	CITY OF PALM COAST	160 LAKE AVENUE	PALM COAST, FL 32164
08-12-31-5816-00000-0010	PAUL DUGGAL FLORIDA LLC	1212 WICKHAM AVE FL ST	MIDDLETOWN, NY 10940
08-12-31-5816-00000-0020	MDC COAST 17 LLC	11995 EL CAMINO REAL	SAN DIEGO, CA 92130
08-12-31-0650-000A0-0090	TLG LLC	5850 E HWY 100	PALM COAST, FL 32164
08-12-31-0650-000B0-0070	FLAGLER PINES PROPERTIES LLC	4 LAMBERT COVE	FLAGLER BEACH, FL 32136
08-12-31-0650-000D0-0051	SEMINOLE WOODS INVESTMENTS, LLC	7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940
08-12-31-0650-000D0-0050	BJ'S WHOLESALE CLUB, INC	350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0071	BJS WHOLESALE CLUB INC	350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0074	SEMINOLE WOODS INVESTMENTS, LLC	7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940

I hereby affirm mailed notice to each owner on 7 /24 /2023 for the Planning and Development Board meeting on 8 /8 /2023 at 6:00 pm.



Gina Lemon, Development Review Planner III

Growth Management Department
Planning & Development
1769 E. Moody Blvd, Bldg. 2
Bunnell, FL 32110



www.flaglercounty.org
Phone: (386)313-4009
Fax: (386)313-4109

July 24, 2023

SEMINOLE WOODS INVESTMENTS, LLC
7331 OFFICE PARK PLACE SUITE 200
MELBOURNE, FL 32940

RE: Application #3371 – Variance to Exceed Maximum Impervious Area in the C-2 (General Commercial and Shopping Center) District

Dear Property Owner:

As owner of property within 300' of the property referenced herein, the Flagler County Planning Department, in accordance with Section 2.07.00 of the Flagler County Land Development Code, advises you that:

A request has been made by applicant Alann Engineering Group, Inc. on behalf of owner Seminole Woods Investment, LLC for a Variance to allow the maximum impervious area up to 80%, the minimum pervious area required in the C-2 District is a minimum of 30% on the subject property as identified proposed Parcel A, in the Preliminary Plat known as Cornerstone at Seminole Woods and known as Parcel Number: 08-12-31-0650-000D0-0051.

You are hereby notified that a public hearing before the **Flagler County Planning and Development Board**, required by law, will be held in the Flagler County Government Services Building, Board Chambers, at 1769 East Moody Boulevard, Building 2, Bunnell, Florida, on **August 8, 2023**, beginning at **6:00 p.m.** or as soon thereafter as possible.

You are welcome to attend and express your opinion.

Sincerely,

Gina Lemon
Development Review Planner III

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDED TO APPEAL ANY DECISION BY THE BOARD, AGENCY OR COMMISSION WITHRESPECT 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 VERBATUM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTAMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

Andy Dance
District 1

Greg Hansen
District 2

David Sullivan
District 3

Leann Pennington
District 4

Donald O'Brien, Jr.
District 5

APPLICATION # 3371
**NOTICE OF
PUBLIC HEARING**

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

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

August 8, 2023 @ 6:00 PM

REQUEST: **80% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**

Parcel Number: 08-12-31-0650-000D0-0051
Zoning District: C-2 DISTRICT

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

For additional information visit web page at: www.flaglercounty.gov or call Flagler County
Planning & Zoning Department at (386) 313-4009
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE

APPLICATION # 3372
**NOTICE OF
PUBLIC HEARING**

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

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

August 8, 2023 @ 6:00 PM

REQUEST: **80% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**

Parcel Number: 08-12-31-0650-000D0-0051
Zoning District: C-2 DISTRICT

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

For additional information visit web page at: www.flaglercounty.gov or call Flagler County
Planning & Zoning Department at (386) 313-4009
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING/AGENDA ITEM #6**

SUBJECT: QUASI-JUDICIAL – Application #3372 – Request for a variance to exceed the maximum impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot C, Cornerstone at Seminole Woods. Parcel No. 08-12-31-0650-000D0-0051; 1.10 +/- acres. Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc. (Project #2023050063).

DATE OF MEETING: July 11, 2023 August 8, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is to exceed the impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot C, Cornerstone at Seminole Woods. This proposed parcel is 1.10 +/- acres in size, identified as Parcel #:08-12-31-0650-000D0-0051:



On May 23, 2023, Alann Engineering Group, Inc. submitted an application for a variance to exceed the maximum allowable impervious area. This request is prior to commencement of construction.

The subject property is described as proposed Lot C of the Cornerstone at Seminole Woods subdivision, the plat is at preliminary approval and not yet recorded in the Public Records of Flagler County, Florida.

This application was reviewed by the Technical Review Committee (TRC) at its June 21, 2023 meeting. The Technical Review Committee provided comments to be addressed by the applicant, and the applicant provided their response.

Public notice has been provided for this application according to Flagler County Land Development Code Section 2.07.00.

This agenda item is:

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

OPTIONS FOR THE BOARD:

APPROVAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3372 to exceed the impervious area up to a maximum of 80 percent on proposed Lot C, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051).

DENIAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have not been met and therefore denies Application #3372 to exceed the impervious area up to a maximum of 80 percent on proposed Lot C, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051).

CONTINUANCE: The Planning and Development Board continues the variance request on the basis that additional information is needed from staff or the applicant. Based on the presentation and the public hearing, the Board does not have sufficient information to be able to render a decision on the variance request. Continuing the variance request to a time and date certain will preserve public notice and provide an opportunity for staff or the applicant to provide additional information.

ATTACHMENTS:

1. Technical Staff Report
2. Application and supporting documents
3. TRC comments
4. Applicant's response to TRC comments
5. Public notice

**APPLICATION #3372
VARIANCE IMPERVIOUS AREA UP TO MAXIMUM OF 80%
IN THE C-2 DISTRICT
PROPOSED LOT C, CORNERSTONE AT SEMINOLE WOODS
TECHNICAL STAFF REPORT**

Application/Project #: 3372/2023050063

Address: Not assigned (Proposed Lot C, Cornerstone at Seminole Woods)

Owner: Seminole Woods Investments, LLC

Applicant: Alann Engineering Group, Inc.

Parcel #: Part of 08-12-31-0650-000D0-0051

Parcel Size: 1.10+/- acres

Legal Description: Proposed Lot C, Cornerstone at Seminole Woods

Existing Zoning and Land Use Classification:

Zoning: C-2 (General Commercial and Shopping Center) District

Land Use: Commercial High Intensity

Future Land Use Map Classification/Zoning of Surrounding Land:

North: State Road 100

East: City of Palm Coast commercial

South: Industrial/I (Industrial) zoning district

West: Commercial: High Intensity and Industrial/ C-2 (General Commercial and Shopping Center) and I (Industrial) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.17, C-2 – *General commercial and shopping center district*; Section 3.07.03, *Procedure for variances and special exceptions*; Section 3.07.03.E, *Variance guidelines*.

General description of request

Variance Guideline Analysis

LDC Section 3.07.03.E, *Variance guidelines*, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant's statements (included below and attached in their entirety) and staff's analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and*

The development as a whole (which is now it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for – such is the hardship in this case.

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC, Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than the 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

Staff analysis: The County's C-2 (General commercial and shopping center) zoning district provides dimensional requirements for shopping centers (where tenants lease

space held under common ownership) based on project size, while general commercial development (where parcels are individually described and separately owned) is based on lot size. Regardless of the shopping center or general commercial approach within the C-2 zoning district, the minimum pervious area is set as thirty (30) percent. Using the inverse of the minimum pervious area, the maximum impervious area would be set at 70% of the parcel area.

The County's Land Development Code does not provide for a master planned development – inclusive of common elements – outside of a Planned Unit Development (PUD). It was originally anticipated that the BJ's Wholesale Club parcel (Proposed Lot F) would begin its vertical development through a County-issued building permit, with the Cornerstone at Seminole Woods plat to be completed prior to annexation into the City of Palm Coast. Individual building permits for the outparcels were to follow final plat approval, and the BJ's permit would be completed by the County following annexation. Aside from discussions with the developer, the County has no formal agreement with the developer as to process. The timing of the development of the Cornerstone project is (for the most part) to be guided by the Pre-Annexation Agreement between the developer and the City. The County is not a party to the Pre-Annexation Agreement, and would not enforce any of its provisions inclusive of the timing of development.

However, the developer has opted instead to pursue development of individual lots now prior to annexation. While the County is not opposed to this approach, it creates the current need for the variance for each of the proposed lots since stormwater is handled through a master stormwater system, enabling each lot to maximize its buildout as would be consistent with a master planned development (as opposed to a single commercial use as is anticipated by the C-2 zoning district).

As a forward-looking statement, development of the remaining proposed lots will become problematic without an approved final plat. As an example, the proposed Lot B is part of Parcel No. 08-12-31-0650-000D0-0051. Proposed Lots A, B, C, and part of D are all within Parcel No. 08-12-31-0650-000D0-0051. The County can permit single developments occurring on identified parcels, but multiple developments on a single parcel – without a plat – is not permitted by the County's Land Development Code.

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

Applicant's response: The conditions were not created by the applicant – the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria

for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

Staff analysis: Had the project annexed into the City as originally discussed, the variance to exceed the impervious area would not have been necessary. The delay in annexation – and the permit submittal for the proposed outparcels – have made the variance necessary.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code.

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

Staff analysis: Hindsight as to the intended pace of development would have made the Planned Unit Development (PUD) and completion of the subdivision plat a more prudent decision instead of multiple variances. Even with the need for the mix of variances for this project, the approval does not cause substantial detriment to the public health, welfare, safety, and morals of the community.

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

Applicant's response: The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed – it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

Staff analysis: The proposed use is a permitted use in the C-2 zoning district. Granting the variance would not permit a use other than those listed within the C-2 zoning district.

County staff disagrees with the applicant's assertion that the County missed the impervious limit in its prior reviews. Impervious area – like other dimensional requirements – is determined at the site plan level for each parcel's development, something that was not previously contemplated (or approved) through prior reviews by the County. For example, a proposed restaurant – and its layout – was not approved by the County through the preliminary plat. Specificity comes through successive submittals and review (and approval) steps. And as a final point, the development of individual lots and their conformity to the County's requirements was viewed as moot by the County due to the pending annexation: the development of

each of the lots were to satisfy City requirements, not County requirements. The delay in the annexation into the City has prompted the need for the variance.

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

Applicant's response: The variance will be the minimum necessary to alleviate the hardship.

The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe that it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

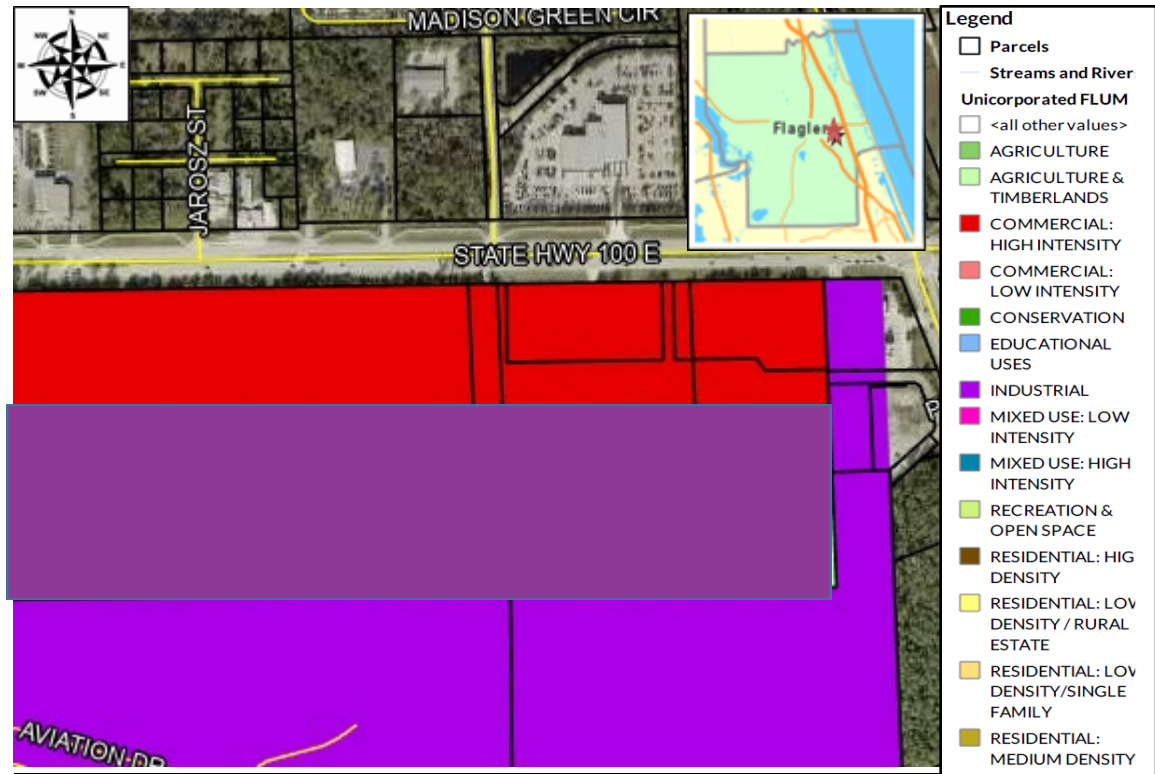
It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County, Florida ("Annexation Agreement"). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City's LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County's LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant's reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully request that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

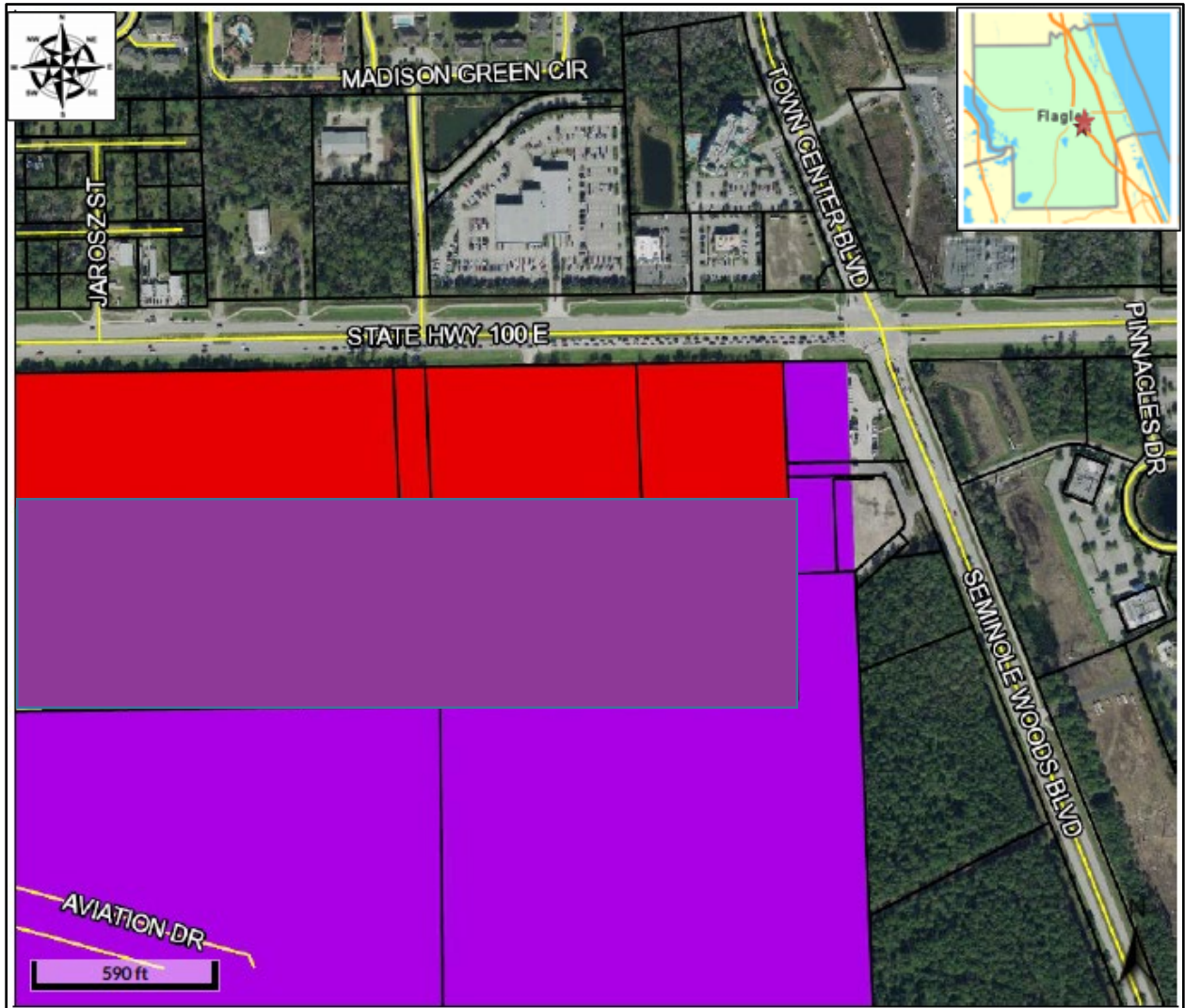
Staff analysis: The requested variance is the minimum variance needed to alleviate the hardship. County staff does not agree with the applicant's interpretation of the

applicability of the C-2 zoning's dimensional requirements. As for the Pre-Annexation Agreement, the developer is dependent on the City for its utilities regardless of whether or not the applicant was a party to the Settlement Agreement. The County does not separately have available utilities to serve the proposed project.

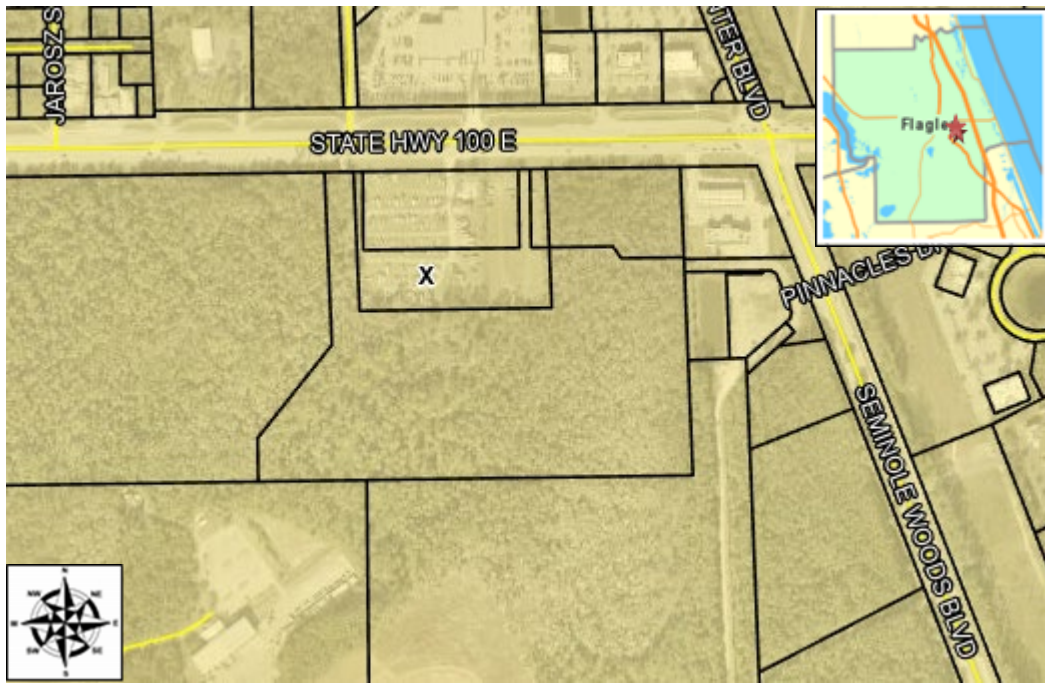
Future Land Use



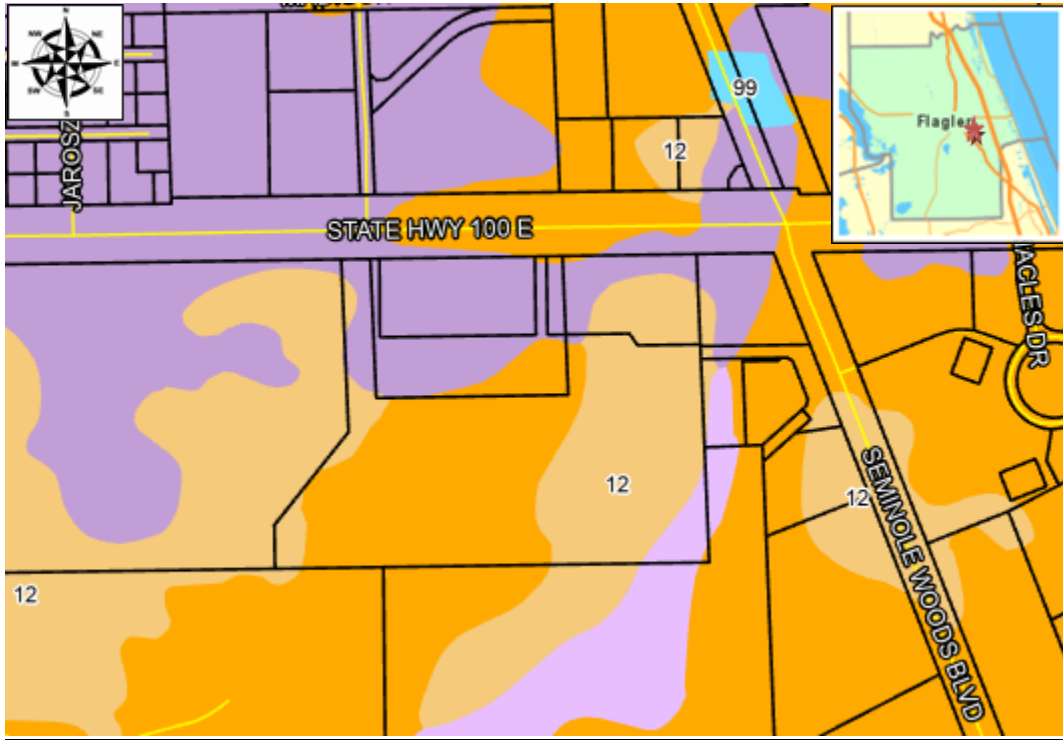
Zoning



Flood Zone

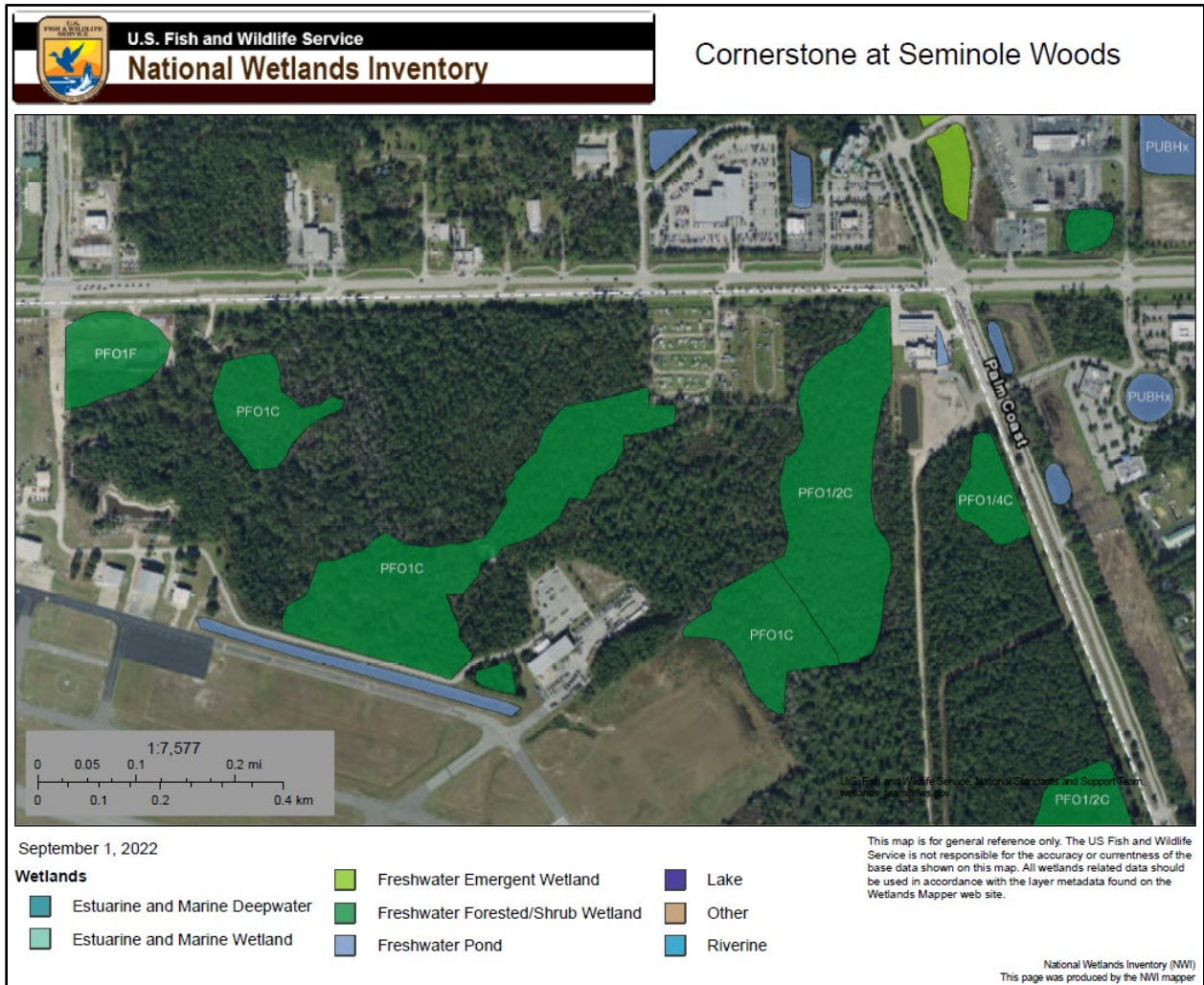


Soils



Soil Types
12 Placid, Basinger and St Johns soils, depressional
19 Valkaria fine sand
21 Smyrna fine sand

Wetlands





APPLICATION FOR VARIANCE

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

Application/Project #: 3372 / 2023050063

PROPERTY OWNER(S)	Name(s): Matthew Williams, Seminole Woods Investments, LLC		
	Mailing Address: 7331 Office Park Pl Ste 200		
	City: Melbourne	State: Florida	Zip: 32940
	Telephone Number 321-254-2400	Fax Number n/a	

APPLICANT/AGENT	Name(s): Kimberly A. Buck, Alann Engineering Group, Inc.		
	Mailing Address: 880 Airport Rd., Suite 113		
	City: Ormond Beach	State: FL	Zip: 32174
	Telephone Number 386-673-7640	Fax Number n/a	
	E-Mail Address: kim.buck@ae-group.com		

SUBJECT PROPERTY	SITE LOCATION (street address):	5861 State Hwy 100 E, Palm Coast, FL 23164	
	LEGAL DESCRIPTION: (briefly describe, do not use "see attached")	Parcel of land located in Sec 8, T 12 S, R 31 E, in Flagler County, FL.	
	Parcel # (tax ID #):	08-12-31-0650-000D0-0051	
	Parcel Size:	Lot C: 1.10 Acres	
	Current Zoning Classification:	Planned Unit Development	
	Current Future Land Use Designation	Commercial: High Intensity	
	Subject to A1A Scenic Corridor IDO?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO

Relief Requested: To allow for an increase of impervious area to 80%.



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

05/23/2023

 Date

****OFFICIAL USE ONLY****

PLANNING BOARD RECOMMENDATION/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. 09/16



APPLICATION FOR VARIANCE

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

Subject Property: 5861 State Hwy 100 E, Palm Coast, FL 23164

E. *Variance guidelines.* A variance may be granted, upon application, from the terms and provisions of this article as will not be contrary to the public health, safety, welfare and morals where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship. Such variances may be granted by the planning board in such individual case of unnecessary hardship upon a written finding that:

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or part, creates an unnecessary hardship; and

The development as a whole (which is how it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for - such is the hardship in this case.

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

The conditions were not created by the applicant - the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code

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

The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed - it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

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

The variance will be the minimum necessary to alleviate the hardship.



Owner's Authorization for Applicant/Agent

FLAGLER COUNTY, FLORIDA

1769 E. Moody Boulevard, Suite 105

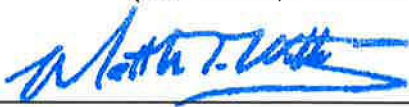
Bunnell, FL 32110

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

Application/Project # _____

Alann Engineering Group, Inc. _____, is hereby authorized TO ACT ON BEHALF OF Seminole Woods Investments, LLC, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Flagler County, Florida for an application for variance to impervious percentage requirement.

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

By: 
Signature of Owner

Matthew T. Williams
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)

7331 Office Park Place Suite 200
Mailing Address

321-254-2400

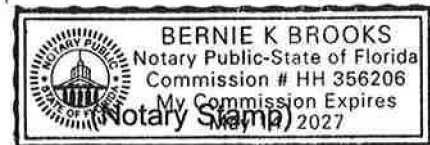
Melbourne FL 32940
City State Zip

STATE OF Florida

COUNTY OF Brevard

The foregoing was acknowledged before me this 22 day of May, 2023 by Matthew T. Williams 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.


Signature of Notary Public



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

Revised 5/08

Prepared by (and return to):

Michael P. Maguire, Esq.
Maguire Law Group
3300 Henderson Blvd., Suite 206A
Tampa, FL 33609

**CORRECTIVE DEED IS BEING RECORDED
TO CORRECT LEGAL DESCRIPTION
SHOWN ON O.R. BOOK 2769 PAGE 393**

Parcel Identification Number(s): 08-12-31-0650-000D0-0050

SPECIAL WARRANTY DEED

THIS INDENTURE is made and entered into as of the 6th day of April, 2023, by and between **FLAGLER PINES PROPERTIES, LLC**, a Florida limited liability company ("Grantor"), whose mailing address is 4 Lambert Cove, Flagler Beach, Florida 32136, and **SEMINOLE WOODS INVESTMENTS, LLC.**, a Florida limited liability company ("Grantee"), whose mailing address is 7331 Office Park Place, Suite 200, Melbourne, Florida 32940.

WITNESSETH, that Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold, alienated, remised, released, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alienate, remise, release, convey and confirm unto Grantee, and Grantee's heirs, successors and assigns forever, the following described real property in the County of Flagler, State of Florida, to-wit:

SEE **EXHIBIT A** ATTACHED HERETO
AND INCORPORATED HEREIN BY REFERENCE THERETO,

TOGETHER with all the tenements, hereditaments and appurtenances, and every privilege, right, title, interest and estate, reversion, remainder and easement thereto belonging or in anywise appertaining (collectively, the "Property").

SUBJECT TO the encumbrances and exceptions described on **Exhibit B** attached hereto and incorporated herein by reference thereto (collectively, "Permitted Exceptions"); provided, however, that neither Grantor nor Grantee intend to reimpose any Permitted Exceptions nor shall this conveyance operate to reimpose or extend any Permitted Exceptions.

THIS PROPERTY IS NOT THE HOMESTEAD OF GRANTOR.

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

And Grantor does hereby warrant that, subject to and except for the Permitted Exceptions, the title to the Property is free from all encumbrances made by Grantor, and that subject to and except for the Permitted Exceptions, Grantor will defend the same against the lawful claims and demands of all persons and entities claiming by, through, or under Grantor, but against none other.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE TO SPECIAL WARRANTY DEED

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

Signed, sealed and delivered
in the presence of:

FLAGLER PINES PROPERTIES, LLC,
a Florida limited liability company

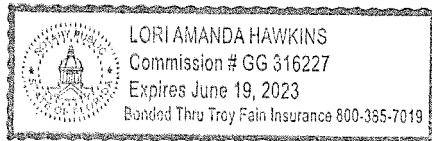
Lori Amanda Hawkins
Print Witness Name: Lori Amanda Hawkins

By: [Signature]
Print Name: James E. Gardner, Jr.
Its: Manager

[Signature]
Print Witness Name: [Signature]

STATE OF FLORIDA
COUNTY OF Flagler

The foregoing instrument was acknowledged before me by means of physical appearance or online notarization, this 6th day of March, 2023, by James E. Gardner, Jr., as Manager of **FLAGLER PINES PROPERTIES, LLC**, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced _____ as identification.



(Notary Seal)

Lori Amanda Hawkins
Notary Public (Signature)
Print Name: _____
My Commission Expires: _____

EXHIBIT A
Legal Description of Property

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 914, PAGE 84, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 89°09'05" WEST A DISTANCE OF 461.70 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 02°23'12" EAST A DISTANCE OF 270.13 FEET; THENCE SOUTH 89°09'20" WEST A DISTANCE OF 62.68 FEET; THENCE NORTH 00°47'58" WEST A DISTANCE OF 270.03 FEET TO A POINT ON THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 89°09'07" EAST A DISTANCE OF 55.20 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

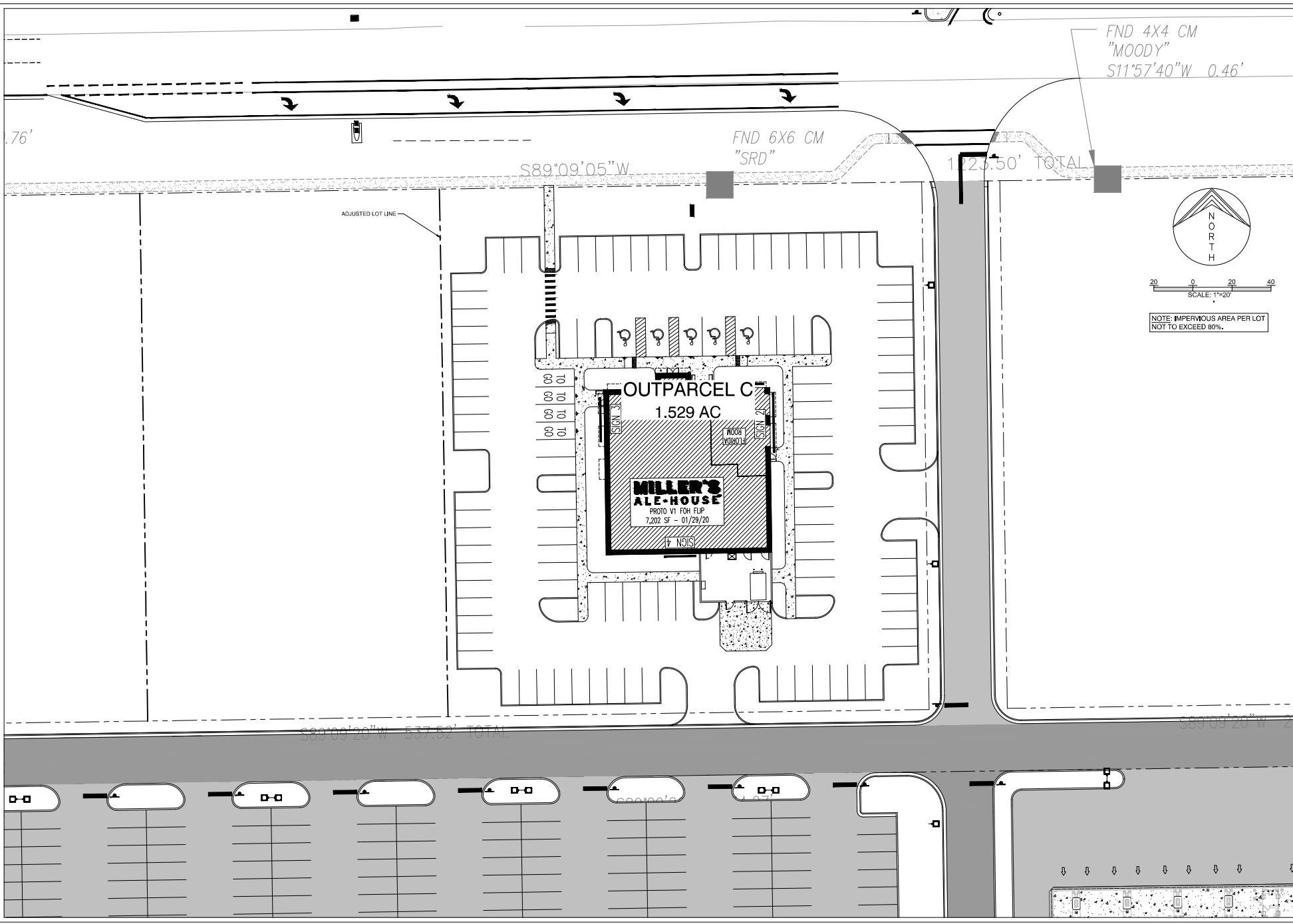
AND

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 914, PAGE 84, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 89°09'05" WEST A DISTANCE OF 556.89 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 00°47'58" EAST A DISTANCE OF 270.02 FEET; THENCE SOUTH 89°09'20" WEST A DISTANCE OF 537.52 FEET; THENCE NORTH 00°13'49" WEST A DISTANCE OF 270.00 FEET TO A POINT ON THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 89°09'05" EAST A DISTANCE OF 534.83 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

EXHIBIT B
Permitted Exceptions

Taxes and assessments for the year 2023 and subsequent years, which are not yet due and payable.



FND 4X4 CM
"MOODY"
S11°57'40"W 0.46'

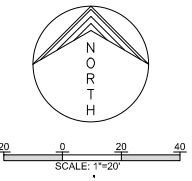
FND 6X6 CM
"SRD"

S89°09'05"W

1,223.50' TOTAL

76'

ADJUSTED LOT LINE



NOTE: IMPERVIOUS AREA PER LOT
NOT TO EXCEED 80%.

OUTPARCEL C
1.529 AC

**MILLER'S
ALE-HOUSE**
PROTO V1 FOH FUP
7,202 SF - 01/29/20

ALANN ENGINEERING
GROUP, INC.
1000 W. UNIVERSITY BLVD.
SUITE 113
ORLANDO, FL 32817
TEL: (386) 873-7640
FAX: (386) 873-9327

CORNERSTONE AT SEMINOLE WOODS
FLAGLER COUNTY
OUTPARCEL C - VARIANCE SITE PLAN

NO.	DATE	BY

DISCOUR	DATE	SCALE
	6/21/22	1" = 20'

FILE	PROJECT
2111-1	2111-1

SHEET
C001

FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 6 / 21 / 2023

VARIANCE TO MAXIMUM IMPERVIOUS AREA AT 80% IN THE C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT

APPLICANT: Alann Engineering Group, Inc. / OWNER: Seminole Woods Investments, LLC

Distribution date: June 16, 2023

Project #: 2023050063

Application #: 3372

Attached are departmental comments regarding your submittal to Flagler County for the above referenced project. **Any questions regarding any of the comments should be addressed to the department providing the comment.**

Flagler County Building Department	386-313-4002
Flagler County Planning Department	386-313-4009
Flagler County Development Engineering	386-313-4082
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 at this time.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time.

REVIEWING DEPARTMENT: COUNTY ENGINEERING

No comments at this time.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. General Comment:

This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Commercial Subdivision meets the zoning requirements.

REVIEWING DEPARTMENT: E-911 STAFF

No comments at this time.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No comments at this time.

REVIEWING DEPARTMENT: FIRE INSPECTOR

1. Fire has no issues with this.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.
2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 District requirements.



June 23, 2023

Gina Lemon
Flagler County Planning Services
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110

RE: App # 3372 – Cornerstone at Seminole Woods: Lot C Variance
Project # 2023050063 / AR # 4113

Dear Gina,

We are in receipt of comments for the referenced project. These comments were generated during the TRC review of the project and delivered to us on June 16th, 2023. We have revised our plans and submitted the material below for your review and approval:

1. Responses to Staff Comments (this letter)
2. Revised Variance Application

We offer the following responses to staff comments:

DEVELOPMENT ENGINEERING

1. This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Commercial Subdivision meets the zoning requirements.

RESPONSE: Noted. The project as a whole has slightly less than 50% impervious area.

FIRE INSPECTOR

1. Fire has no issues with this.

RESPONSE: Noted.

PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.

RESPONSE: The impervious area shown is the maximum allowable since some of the out-parcel users are unknown.

2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 District requirements.

RESPONSE: Please see revised page 2 attached to the application.

Should you have any questions or require additional information, please advise.

Sincerely,
The Alann Engineering Group, Inc.



Kimberly A. Buck, P.E.
President

cc: File

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considering in whole or part, creates an unnecessary hardship; and

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17.A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, a basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

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

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

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

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

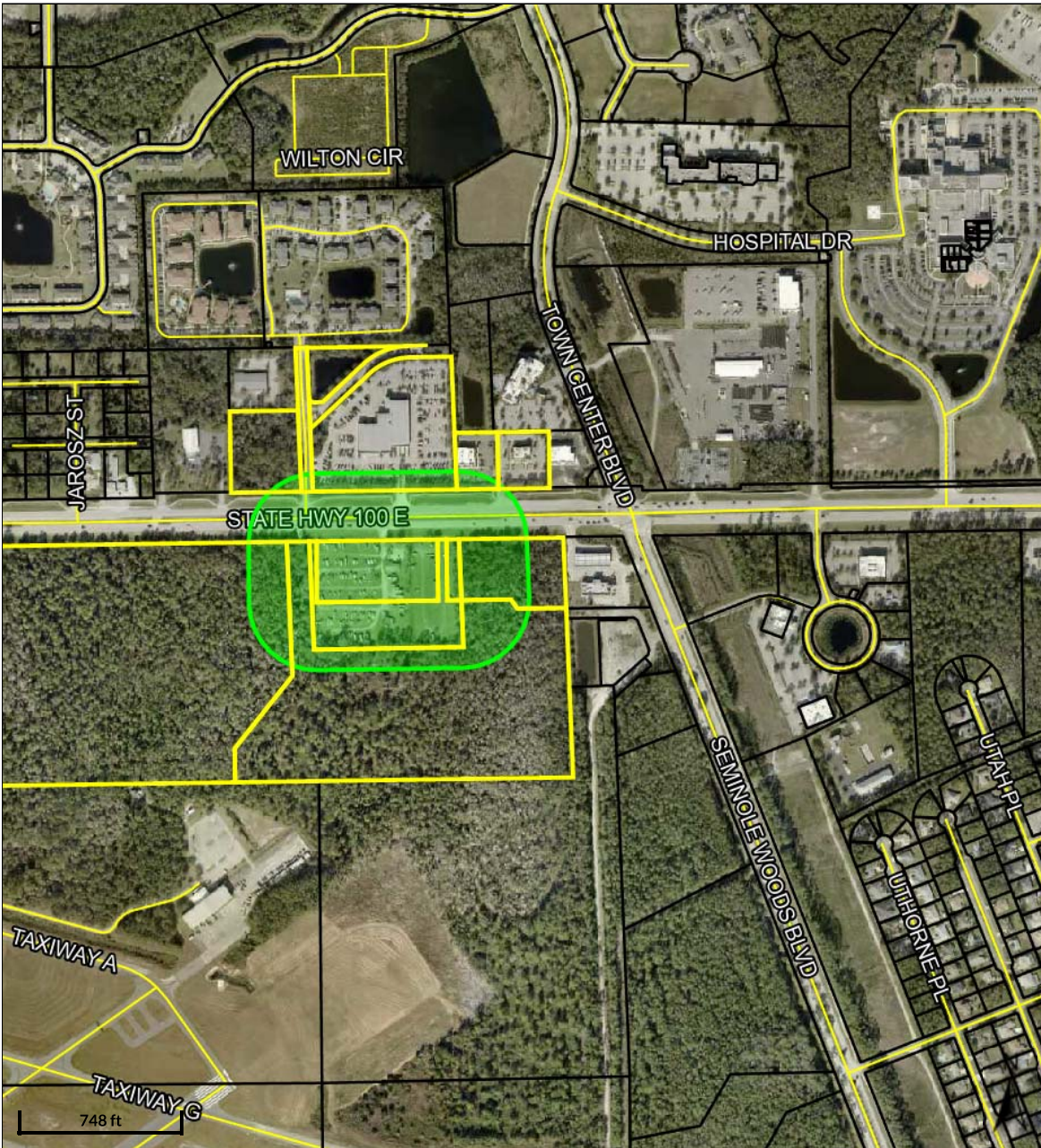
A variance, if granted, shall be the minimum variance necessary to alleviate the hardship. For purpose of this section, an unnecessary hardship shall mean that without the granting of the variance the owner will be deprived of all reasonable use of the property as allowed in the zoning district.

The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County,

Florida (“Annexation Agreement”). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City’s LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County’s LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant’s reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully requests that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.



Overview



Legend

- Parcels
- Roads
- Streams and Rivers

Date created: 6/22/2023

Last Data Uploaded: 6/22/2023 8:10:35 AM

Developed by Schneider GEOSPATIAL

App #3372

Variance

ParcelId	OwnerName	OwnerAddress2	OwnerCityStZip
08-12-31-0650-000B0-0110	MCCORMICK 100 LLC	24 PORT ECHO LANE	PALM COAST, FL 32164
08-12-31-0650-000A0-0093	CITY OF PALM COAST	160 LAKE AVENUE	PALM COAST, FL 32164
08-12-31-5816-00000-0010	PAUL DUGGAL FLORIDA LLC	1212 WICKHAM AVE FL ST	MIDDLETOWN, NY 10940
08-12-31-5816-00000-0020	MDC COAST 17 LLC	11995 EL CAMINO REAL	SAN DIEGO, CA 92130
08-12-31-0650-000A0-0090	TLG LLC	5850 E HWY 100	PALM COAST, FL 32164
08-12-31-0650-000B0-0070	FLAGLER PINES PROPERTIES LLC	4 LAMBERT COVE	FLAGLER BEACH, FL 32136
08-12-31-0650-000D0-0051	SEMINOLE WOODS INVESTMENTS, LLC	7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940
08-12-31-0650-000D0-0050	BJ'S WHOLESALE CLUB, INC	350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0071	BJS WHOLESALE CLUB INC	350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0074	SEMINOLE WOODS INVESTMENTS, LLC	7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940

I hereby affirm mailed notice to each owner on 7 /24 /2023 for the Planning and Development Board meeting on 8 /8 /2023 at 6:00 pm.



Gina Lemon, Development Review Planner III

Growth Management Department
Planning & Development
1769 E. Moody Blvd, Bldg. 2
Bunnell, FL 32110



www.flaglercounty.org
Phone: (386)313-4009
Fax: (386)313-4109

July 24, 2023

SEMINOLE WOODS INVESTMENTS, LLC
7331 OFFICE PARK PLACE SUITE 200
MELBOURNE, FL 32940

RE: Application #3372 – Variance to Exceed Maximum Impervious Area in the C-2 (General Commercial and Shopping Center) District

Dear Property Owner:

As owner of property within 300' of the property referenced herein, the Flagler County Planning Department, in accordance with Section 2.07.00 of the Flagler County Land Development Code, advises you that:

A request has been made by applicant Alann Engineering Group, Inc. on behalf of owner Seminole Woods Investment, LLC for a Variance to allow the maximum impervious area up to 80%, the minimum pervious area required in the C-2 District is a minimum of 30% on the subject property as identified proposed Parcel C, in the Preliminary Plat known as Cornerstone at Seminole Woods and known as Parcel Number: 08-12-31-0650-000D0-0051.

You are hereby notified that a public hearing before the **Flagler County Planning and Development Board**, required by law, will be held in the Flagler County Government Services Building, Board Chambers, at 1769 East Moody Boulevard, Building 2, Bunnell, Florida, on **August 8, 2023**, beginning at **6:00 p.m.** or as soon thereafter as possible.

You are welcome to attend and express your opinion.

Sincerely,

Gina Lemon
Development Review Planner III

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDED TO APPEAL ANY DECISION BY THE BOARD, AGENCY OR COMMISSION WITHRESPECT 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 VERBATUM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTAMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

Andy Dance
District 1

Greg Hansen
District 2

David Sullivan
District 3

Leann Pennington
District 4

Donald O'Brien, Jr.
District 5

APPLICATION # 3371
**NOTICE OF
PUBLIC HEARING**

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

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

August 8, 2023 @ 6:00 PM

REQUEST: **80% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**

Parcel Number: 08-12-31-0650-000D0-0051
Zoning District: C-2 DISTRICT

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

For additional information visit web page at: www.flaglercounty.gov or call Flagler County
Planning & Zoning Department at (386) 313-4009
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE

APPLICATION # 3372
**NOTICE OF
PUBLIC HEARING**

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

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

August 8, 2023 @ 6:00 PM

REQUEST: **80% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**

Parcel Number: 08-12-31-0650-000D0-0051
Zoning District: C-2 DISTRICT

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

For additional information visit web page at: www.flaglercounty.gov or call Flagler County
Planning & Zoning Department at (386) 313-4009
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING/AGENDA ITEM #7**

SUBJECT: QUASI-JUDICIAL – Application #3373 – Request for a variance to exceed the maximum impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot D, Cornerstone at Seminole Woods. Parcel No. 08-12-31-0650-000D0-0051 and 08-12-31-0650-000B0-0074; 1.09+/- acres. Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc. (Project #2023050064).

DATE OF MEETING: ~~July 11, 2023~~ August 8, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is to exceed the impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot D, Cornerstone at Seminole Woods. This proposed parcel is 1.09+/- acres in size, identified as Parcel No. 08-12-31-0650-000D0-0051 and 08-12-31-0650-000B0-0074:



On May 23, 2023, Alann Engineering Group, Inc. submitted an application for a variance to exceed the maximum allowable impervious area. This request is prior to commencement of construction.

The subject property is described as proposed Lot D of the Cornerstone at Seminole Woods subdivision, the plat is at preliminary approval and not yet recorded in the Public Records of Flagler County, Florida.

This application was reviewed by the Technical Review Committee (TRC) at its June 21, 2023 meeting. The Technical Review Committee provided comments to be addressed by the applicant, and the applicant provided their response.

Public notice has been provided for this application according to Flagler County Land Development Code Section 2.07.00.

This agenda item is:

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

OPTIONS FOR THE BOARD:

APPROVAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3373 to exceed the impervious area up to a maximum of 80 percent on proposed Lot D, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051 and 08-12-31-0650-000B0-0074).

DENIAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have not been met and therefore denies Application #3373 to exceed the impervious area up to a maximum of 80 percent on proposed Lot D, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000D0-0051 and 08-12-31-0650-000B0-0074).

CONTINUANCE: The Planning and Development Board continues the variance request on the basis that additional information is needed from staff or the applicant. Based on the presentation and the public hearing, the Board does not have sufficient information to be able to render a decision on the variance request. Continuing the variance request to a time and date certain will preserve public notice and provide an opportunity for staff or the applicant to provide additional information.

ATTACHMENTS:

1. Technical Staff Report
2. Application and supporting documents
3. TRC comments
4. Applicant's response to TRC comments
5. Public notice

**APPLICATION #3373
VARIANCE IMPERVIOUS AREA UP TO MAXIMUM OF 80%
IN THE C-2 DISTRICT
PROPOSED LOT D, CORNERSTONE AT SEMINOLE WOODS
TECHNICAL STAFF REPORT**

Application/Project #: 3373/2023050064

Address: Not assigned (Proposed Lot D, Cornerstone at Seminole Woods)

Owner: Seminole Woods Investments, LLC

Applicant: Alann Engineering Group, Inc.

Parcel #: 08-12-31-0650-000D0-0051 and 08-12-31-0650-000B0-0074

Parcel Size: 1.09+/- acres

Legal Description: Proposed Lot D, Cornerstone at Seminole Woods

Existing Zoning and Land Use Classification:

Zoning: C-2 (General Commercial and Shopping Center) District

Land Use: Commercial High Intensity

Future Land Use Map Classification/Zoning of Surrounding Land:

North: State Road 100

East: City of Palm Coast commercial

South: Industrial/I (Industrial) zoning district

West: Commercial: High Intensity and Industrial/ C-2 (General Commercial and Shopping Center) and I (Industrial) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.17, C-2 – *General commercial and shopping center district*; Section 3.07.03, *Procedure for variances and special exceptions*; Section 3.07.03.E, *Variance guidelines*.

General description of request

Variance Guideline Analysis

LDC Section 3.07.03.E, *Variance guidelines*, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant's statements (included below and attached in their entirety) and staff's analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and*

The development as a whole (which is now it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for – such is the hardship in this case.

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC, Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than the 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

Staff analysis: The County's C-2 (General commercial and shopping center) zoning district provides dimensional requirements for shopping centers (where tenants lease

space held under common ownership) based on project size, while general commercial development (where parcels are individually described and separately owned) is based on lot size. Regardless of the shopping center or general commercial approach within the C-2 zoning district, the minimum pervious area is set as thirty (30) percent. Using the inverse of the minimum pervious area, the maximum impervious area would be set at 70% of the parcel area.

The County's Land Development Code does not provide for a master planned development – inclusive of common elements – outside of a Planned Unit Development (PUD). It was originally anticipated that the BJ's Wholesale Club parcel (Proposed Lot F) would begin its vertical development through a County-issued building permit, with the Cornerstone at Seminole Woods plat to be completed prior to annexation into the City of Palm Coast. Individual building permits for the outparcels were to follow final plat approval, and the BJ's permit would be completed by the County following annexation. Aside from discussions with the developer, the County has no formal agreement with the developer as to process. The timing of the development of the Cornerstone project is (for the most part) to be guided by the Pre-Annexation Agreement between the developer and the City. The County is not a party to the Pre-Annexation Agreement, and would not enforce any of its provisions inclusive of the timing of development.

However, the developer has opted instead to pursue development of individual lots now prior to annexation. While the County is not opposed to this approach, it creates the current need for the variance for each of the proposed lots since stormwater is handled through a master stormwater system, enabling each lot to maximize its buildout as would be consistent with a master planned development (as opposed to a single commercial use as is anticipated by the C-2 zoning district).

As a forward-looking statement, development of the remaining proposed lots will become problematic without an approved final plat. As an example, the proposed Lot B is part of Parcel No. 08-12-31-0650-000D0-0051. Proposed Lots A, B, C, and part of D are all within Parcel No. 08-12-31-0650-000D0-0051. The County can permit single developments occurring on identified parcels, but multiple developments on a single parcel – without a plat – is not permitted by the County's Land Development Code.

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

Applicant's response: The conditions were not created by the applicant – the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria

for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

Staff analysis: Had the project annexed into the City as originally discussed, the variance to exceed the impervious area would not have been necessary. The delay in annexation – and the permit submittal for the proposed outparcels – have made the variance necessary.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code.

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

Staff analysis: Hindsight as to the intended pace of development would have made the Planned Unit Development (PUD) and completion of the subdivision plat a more prudent decision instead of multiple variances. Even with the need for the mix of variances for this project, the approval does not cause substantial detriment to the public health, welfare, safety, and morals of the community.

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

Applicant's response: The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed – it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

Staff analysis: The proposed use is a permitted use in the C-2 zoning district. Granting the variance would not permit a use other than those listed within the C-2 zoning district.

County staff disagrees with the applicant's assertion that the County missed the impervious limit in its prior reviews. Impervious area – like other dimensional requirements – is determined at the site plan level for each parcel's development, something that was not previously contemplated (or approved) through prior reviews by the County. For example, a proposed restaurant – and its layout – was not approved by the County through the preliminary plat. Specificity comes through successive submittals and review (and approval) steps. And as a final point, the development of individual lots and their conformity to the County's requirements was viewed as moot by the County due to the pending annexation: the development of

each of the lots were to satisfy City requirements, not County requirements. The delay in the annexation into the City has prompted the need for the variance.

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

Applicant's response: The variance will be the minimum necessary to alleviate the hardship.

The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe that it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

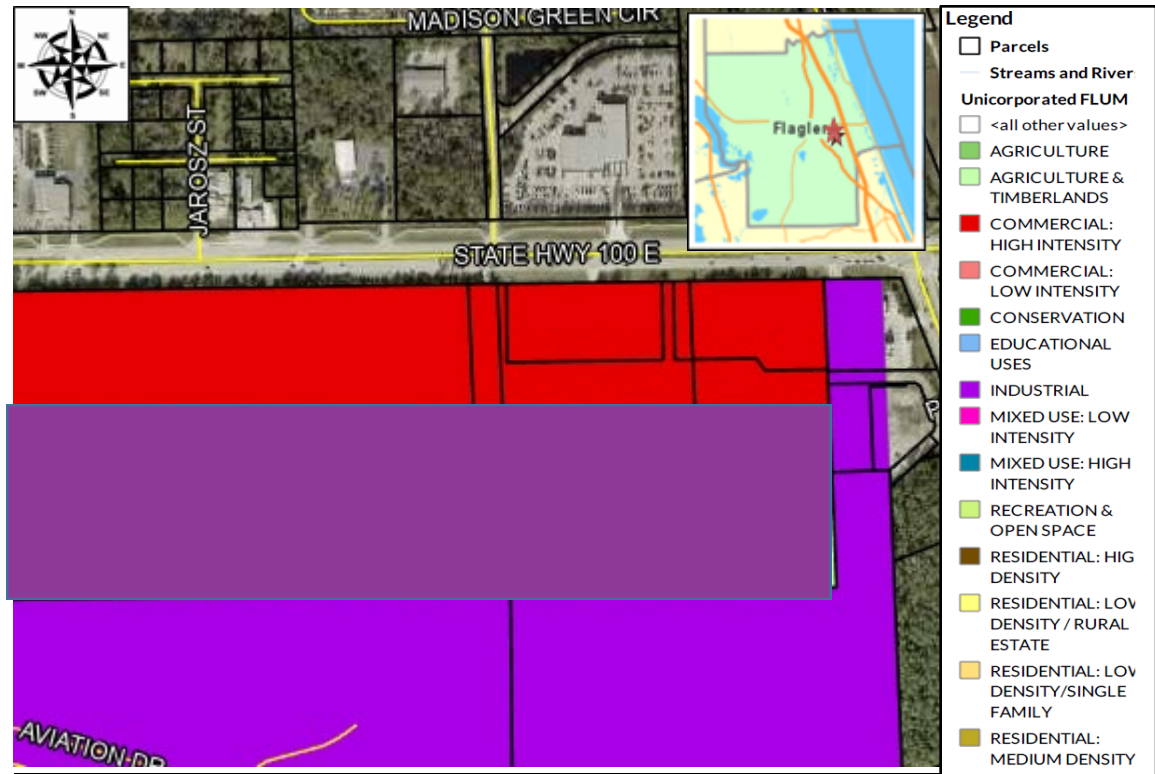
It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County, Florida ("Annexation Agreement"). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City's LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County's LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant's reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully request that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

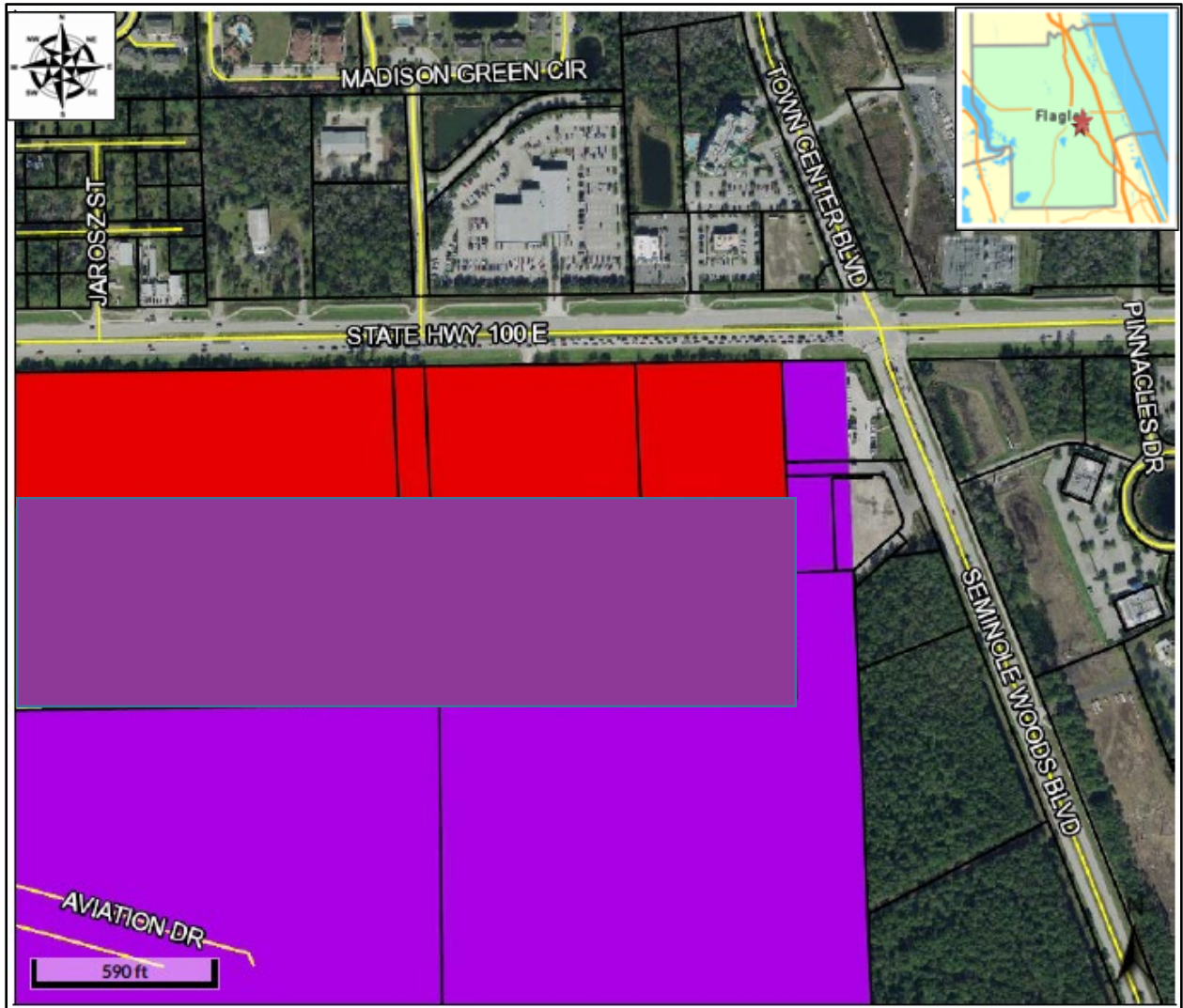
Staff analysis: The requested variance is the minimum variance needed to alleviate the hardship. County staff does not agree with the applicant's interpretation of the

applicability of the C-2 zoning's dimensional requirements. As for the Pre-Annexation Agreement, the developer is dependent on the City for its utilities regardless of whether or not the applicant was a party to the Settlement Agreement. The County does not separately have available utilities to serve the proposed project.

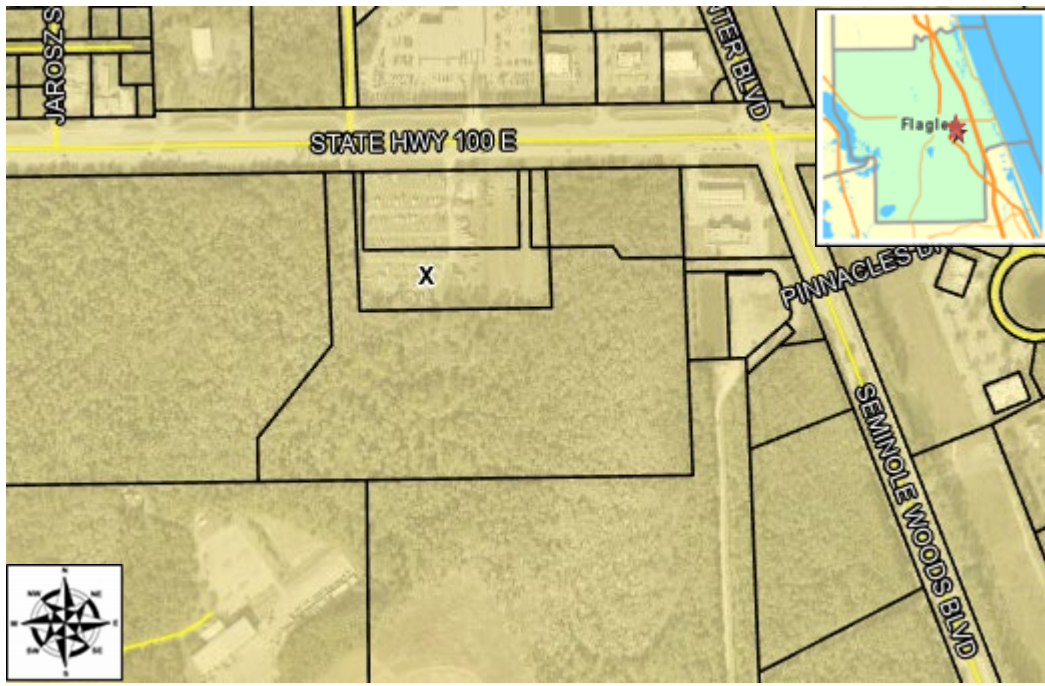
Future Land Use



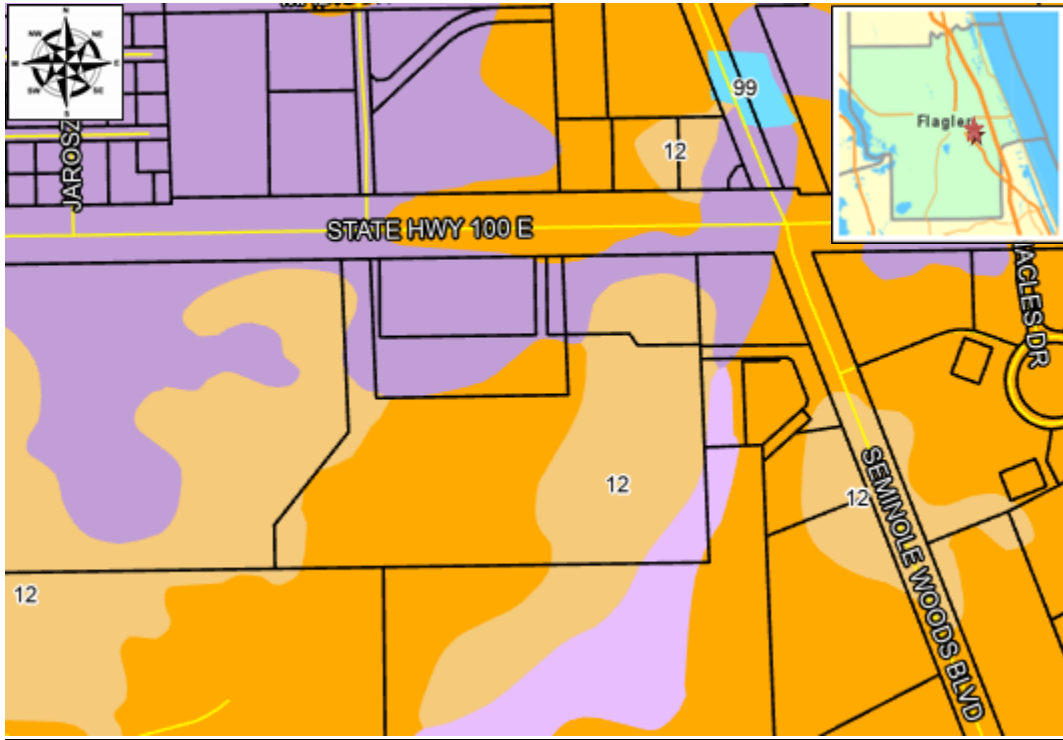
Zoning



Flood Zone

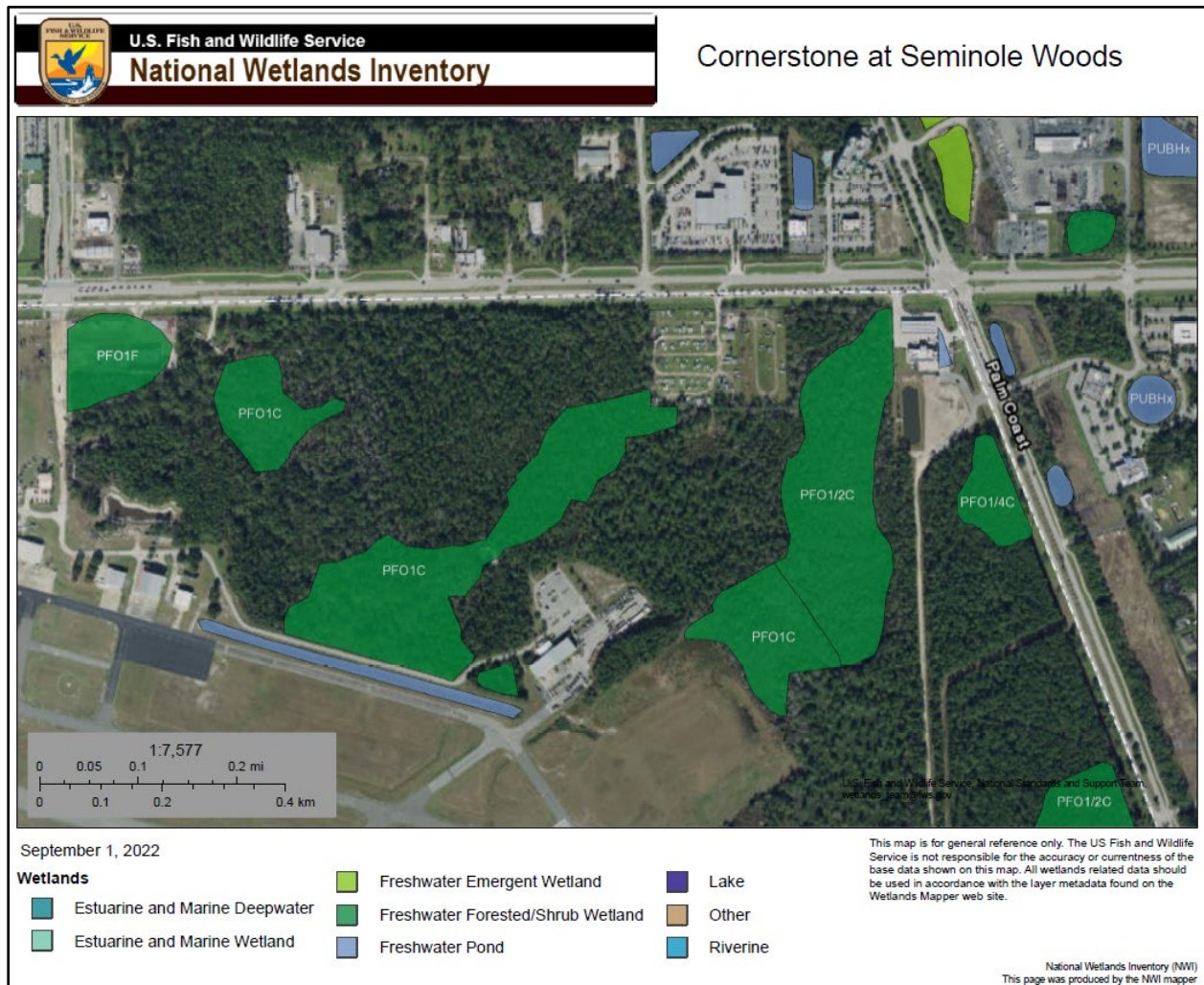


Soils



Soil Types
12 Placid, Basinger and St Johns soils, depressional
19 Valkaria fine sand
21 Smyrna fine sand

Wetlands



**APPLICATION #3373
VARIANCE IMPERVIOUS AREA UP TO MAXIMUM OF 80%
IN THE C-2 DISTRICT
PROPOSED LOT D, CORNERSTONE AT SEMINOLE WOODS
TECHNICAL STAFF REPORT**

Application/Project #: 3373/2023050064

Address: Not assigned (Proposed Lot D, Cornerstone at Seminole Woods)

Owner: Seminole Woods Investments, LLC

Applicant: Alann Engineering Group, Inc.

Parcel #: 08-12-31-0650-000D0-0051 and 08-12-31-0650-000B0-0074

Parcel Size: 1.09+/- acres

Legal Description: Proposed Lot D, Cornerstone at Seminole Woods

Existing Zoning and Land Use Classification:

Zoning: C-2 (General Commercial and Shopping Center) District

Land Use: Commercial High Intensity

Future Land Use Map Classification/Zoning of Surrounding Land:

North: State Road 100

East: City of Palm Coast commercial

South: Industrial/I (Industrial) zoning district

West: Commercial: High Intensity and Industrial/ C-2 (General Commercial and Shopping Center) and I (Industrial) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.17, C-2 – *General commercial and shopping center district*; Section 3.07.03, *Procedure for variances and special exceptions*; Section 3.07.03.E, *Variance guidelines*.

General description of request

Variance Guideline Analysis

LDC Section 3.07.03.E, *Variance guidelines*, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant's statements (included below and attached in their entirety) and staff's analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and*

The development as a whole (which is now it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for – such is the hardship in this case.

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC, Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than the 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

Staff analysis: The County's C-2 (General commercial and shopping center) zoning district provides dimensional requirements for shopping centers (where tenants lease

space held under common ownership) based on project size, while general commercial development (where parcels are individually described and separately owned) is based on lot size. Regardless of the shopping center or general commercial approach within the C-2 zoning district, the minimum pervious area is set as thirty (30) percent. Using the inverse of the minimum pervious area, the maximum impervious area would be set at 70% of the parcel area.

The County's Land Development Code does not provide for a master planned development – inclusive of common elements – outside of a Planned Unit Development (PUD). It was originally anticipated that the BJ's Wholesale Club parcel (Proposed Lot F) would begin its vertical development through a County-issued building permit, with the Cornerstone at Seminole Woods plat to be completed prior to annexation into the City of Palm Coast. Individual building permits for the outparcels were to follow final plat approval, and the BJ's permit would be completed by the County following annexation. Aside from discussions with the developer, the County has no formal agreement with the developer as to process. The timing of the development of the Cornerstone project is (for the most part) to be guided by the Pre-Annexation Agreement between the developer and the City. The County is not a party to the Pre-Annexation Agreement, and would not enforce any of its provisions inclusive of the timing of development.

However, the developer has opted instead to pursue development of individual lots now prior to annexation. While the County is not opposed to this approach, it creates the current need for the variance for each of the proposed lots since stormwater is handled through a master stormwater system, enabling each lot to maximize its buildout as would be consistent with a master planned development (as opposed to a single commercial use as is anticipated by the C-2 zoning district).

As a forward-looking statement, development of the remaining proposed lots will become problematic without an approved final plat. As an example, the proposed Lot B is part of Parcel No. 08-12-31-0650-000D0-0051. Proposed Lots A, B, C, and part of D are all within Parcel No. 08-12-31-0650-000D0-0051. The County can permit single developments occurring on identified parcels, but multiple developments on a single parcel – without a plat – is not permitted by the County's Land Development Code.

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

Applicant's response: The conditions were not created by the applicant – the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria

for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

Staff analysis: Had the project annexed into the City as originally discussed, the variance to exceed the impervious area would not have been necessary. The delay in annexation – and the permit submittal for the proposed outparcels – have made the variance necessary.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code.

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

Staff analysis: Hindsight as to the intended pace of development would have made the Planned Unit Development (PUD) and completion of the subdivision plat a more prudent decision instead of multiple variances. Even with the need for the mix of variances for this project, the approval does not cause substantial detriment to the public health, welfare, safety, and morals of the community.

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

Applicant's response: The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed – it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

Staff analysis: The proposed use is a permitted use in the C-2 zoning district. Granting the variance would not permit a use other than those listed within the C-2 zoning district.

County staff disagrees with the applicant's assertion that the County missed the impervious limit in its prior reviews. Impervious area – like other dimensional requirements – is determined at the site plan level for each parcel's development, something that was not previously contemplated (or approved) through prior reviews by the County. For example, a proposed restaurant – and its layout – was not approved by the County through the preliminary plat. Specificity comes through successive submittals and review (and approval) steps. And as a final point, the development of individual lots and their conformity to the County's requirements was viewed as moot by the County due to the pending annexation: the development of

each of the lots were to satisfy City requirements, not County requirements. The delay in the annexation into the City has prompted the need for the variance.

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

Applicant's response: The variance will be the minimum necessary to alleviate the hardship.

The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe that it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

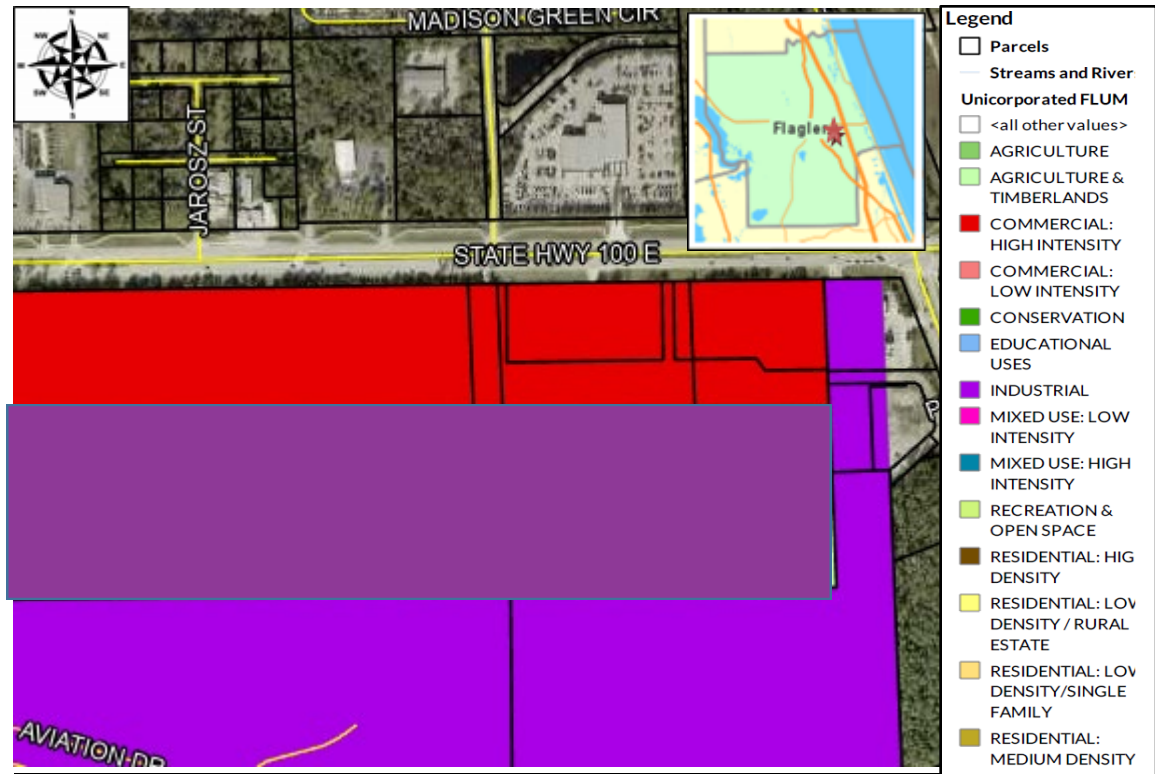
It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County, Florida ("Annexation Agreement"). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City's LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County's LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant's reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully request that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

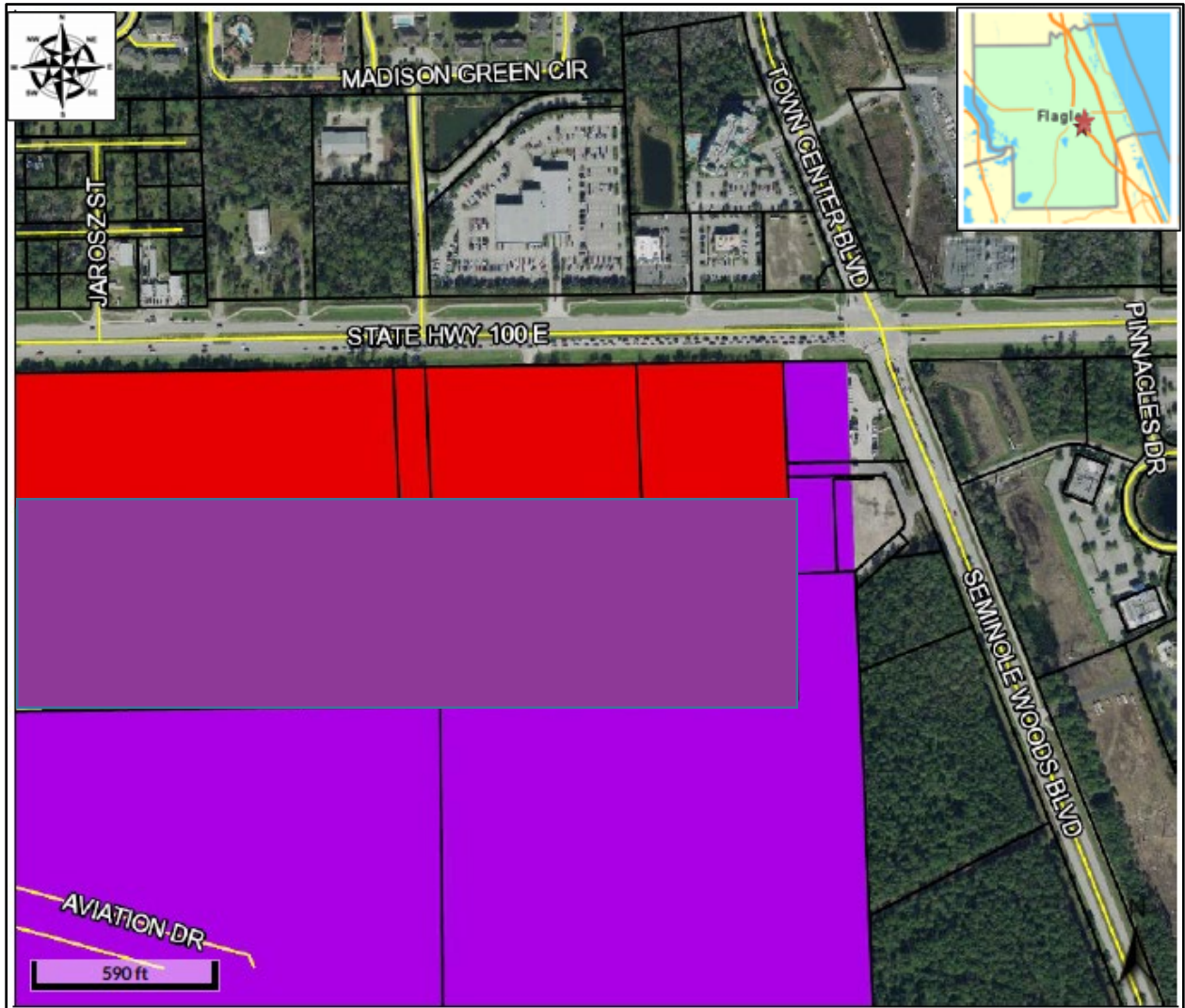
Staff analysis: The requested variance is the minimum variance needed to alleviate the hardship. County staff does not agree with the applicant's interpretation of the

applicability of the C-2 zoning's dimensional requirements. As for the Pre-Annexation Agreement, the developer is dependent on the City for its utilities regardless of whether or not the applicant was a party to the Settlement Agreement. The County does not separately have available utilities to serve the proposed project.

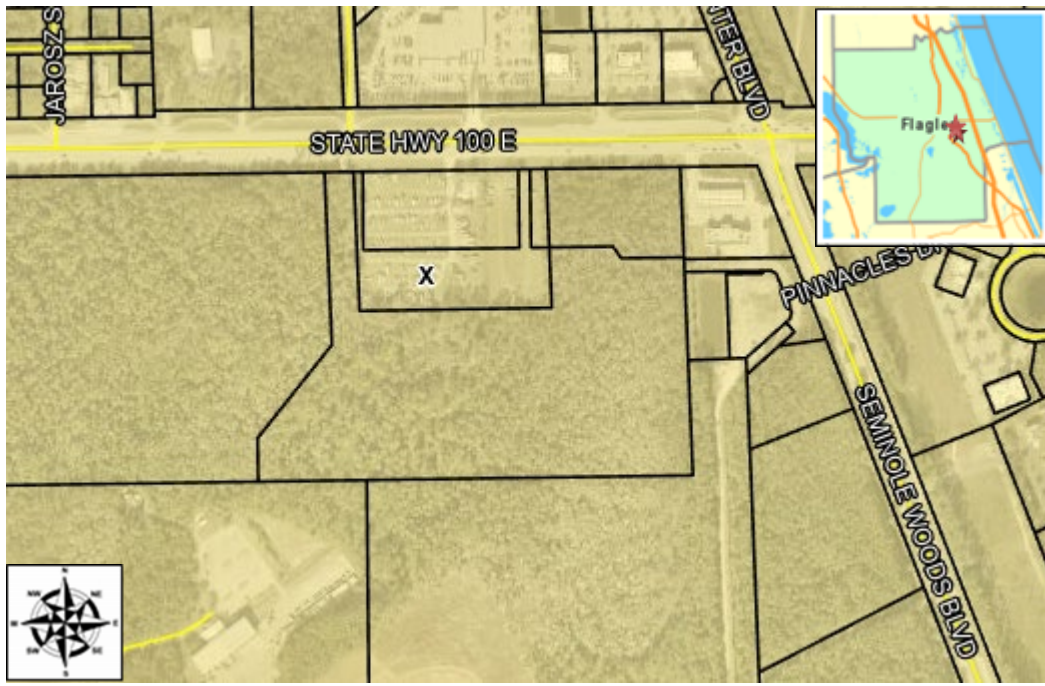
Future Land Use



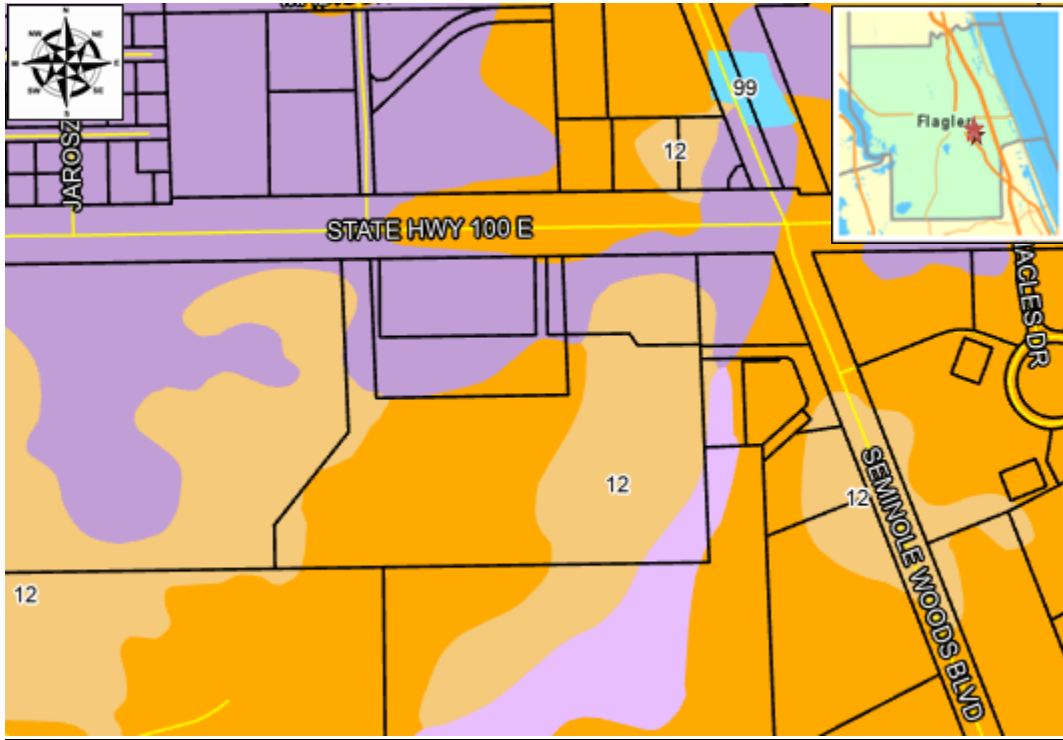
Zoning



Flood Zone

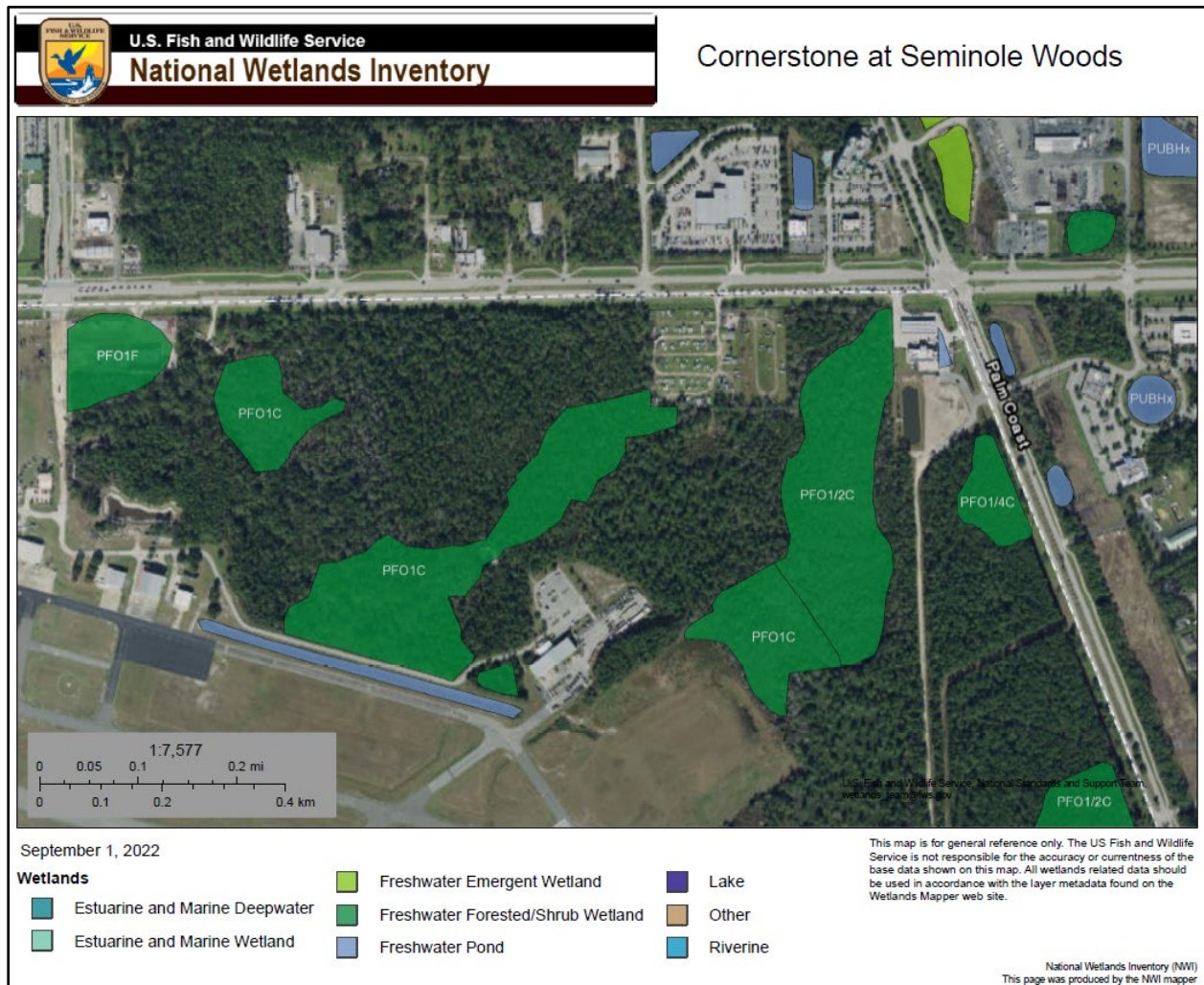


Soils



Soil Types
12 Placid, Basinger and St Johns soils, depressional
19 Valkaria fine sand
21 Smyrna fine sand

Wetlands





APPLICATION FOR VARIANCE

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

Application/Project #: 3373 / 2023050064

PROPERTY OWNER(S)	Name(s): Matthew Williams, Seminole Woods Investments		
	Mailing Address: 7331 Office Park Pl Ste 200 Melbourne FL 32940 and 350 Campus Drive, Marlborough MA 01752		
	City: Melbourne	State: Florida	Zip: 32940
	Telephone Number 321-254-2400	Fax Number n/a	

APPLICANT/AGENT	Name(s): Kimberly A. Buck, Alann Engineering Group, Inc.		
	Mailing Address: 880 Airport Rd., Suite 113		
	City: Ormond Beach	State: FL	Zip: 32174
	Telephone Number 386-673-7640	Fax Number n/a	
	E-Mail Address: kim.buck@ae-group.com		

SUBJECT PROPERTY	SITE LOCATION (street address):	5865 State Hwy 100 E, Palm Coast, FL 23164	
	LEGAL DESCRIPTION: (briefly describe, do not use "see attached")	Parcel of land located in Sec 8, T 12 S, R 31 E, in Flagler County, FL.	
	Parcel # (tax ID #):	08-12-31-0650-000D0-0051 & 08-12-0650-00B0-0074	
	Parcel Size:	Lot D: 1.09 Acres	
	Current Zoning Classification:	Planned Unit Development	
	Current Future Land Use Designation	Commercial: High Intensity	
	Subject to A1A Scenic Corridor IDO?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO

Relief Requested: To allow for an increase of impervious area to 80%.



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

05/23/2023

 Date

****OFFICIAL USE ONLY****

PLANNING BOARD RECOMMENDATION/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. 09/16



APPLICATION FOR VARIANCE

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

Subject Property: 5865 State Hwy 100 E, Palm Coast, FL 23164

E. *Variance guidelines.* A variance may be granted, upon application, from the terms and provisions of this article as will not be contrary to the public health, safety, welfare and morals where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship. Such variances may be granted by the planning board in such individual case of unnecessary hardship upon a written finding that:

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or part, creates an unnecessary hardship; and

The development as a whole (which is how it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for - such is the hardship in this case.

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

The conditions were not created by the applicant - the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code

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

The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed - it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

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

The variance will be the minimum necessary to alleviate the hardship.



Owner's Authorization for Applicant/Agent

FLAGLER COUNTY, FLORIDA

1769 E. Moody Boulevard, Suite 105

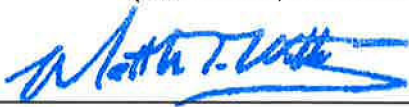
Bunnell, FL 32110

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

Application/Project # _____

Alann Engineering Group, Inc. _____, is hereby authorized TO ACT ON BEHALF OF Seminole Woods Investments, LLC, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Flagler County, Florida for an application for variance to impervious percentage requirement.

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

By: 
Signature of Owner

Matthew T. Williams
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)

7331 Office Park Place Suite 200 321-254-2400

Mailing Address

Melbourne FL 32940
City State Zip

STATE OF Florida

COUNTY OF Brevard

The foregoing was acknowledged before me this 22 day of May, 2023 by Matthew T. Williams 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.


Signature of Notary Public



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

Revised 5/08

Prepared by (and return to):

Michael P. Maguire, Esq.
Maguire Law Group
3300 Henderson Blvd., Suite 206A
Tampa, FL 33609

**CORRECTIVE DEED IS BEING RECORDED
TO CORRECT LEGAL DESCRIPTION
SHOWN ON O.R. BOOK 2769 PAGE 393**

Parcel Identification Number(s): 08-12-31-0650-000D0-0050

SPECIAL WARRANTY DEED

THIS INDENTURE is made and entered into as of the 6th day of April, 2023, by and between **FLAGLER PINES PROPERTIES, LLC**, a Florida limited liability company ("Grantor"), whose mailing address is 4 Lambert Cove, Flagler Beach, Florida 32136, and **SEMINOLE WOODS INVESTMENTS, LLC**, a Florida limited liability company ("Grantee"), whose mailing address is 7331 Office Park Place, Suite 200, Melbourne, Florida 32940.

WITNESSETH, that Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold, alienated, remised, released, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alienate, remise, release, convey and confirm unto Grantee, and Grantee's heirs, successors and assigns forever, the following described real property in the County of Flagler, State of Florida, to-wit:

SEE **EXHIBIT A** ATTACHED HERETO
AND INCORPORATED HEREIN BY REFERENCE THERETO,

TOGETHER with all the tenements, hereditaments and appurtenances, and every privilege, right, title, interest and estate, reversion, remainder and easement thereto belonging or in anywise appertaining (collectively, the "Property").

SUBJECT TO the encumbrances and exceptions described on **Exhibit B** attached hereto and incorporated herein by reference thereto (collectively, "Permitted Exceptions"); provided, however, that neither Grantor nor Grantee intend to reimpose any Permitted Exceptions nor shall this conveyance operate to reimpose or extend any Permitted Exceptions.

THIS PROPERTY IS NOT THE HOMESTEAD OF GRANTOR.

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

And Grantor does hereby warrant that, subject to and except for the Permitted Exceptions, the title to the Property is free from all encumbrances made by Grantor, and that subject to and except for the Permitted Exceptions, Grantor will defend the same against the lawful claims and demands of all persons and entities claiming by, through, or under Grantor, but against none other.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE TO SPECIAL WARRANTY DEED

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

Signed, sealed and delivered
in the presence of:

FLAGLER PINES PROPERTIES, LLC,
a Florida limited liability company

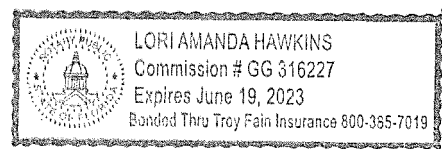
Lori Amanda Hawkins
Print Witness Name: Lori Amanda Hawkins

[Signature]
By: _____
Print Name: James E. Gardner, Jr.
Its: Manager

[Signature]
Print Witness Name: [Signature]

STATE OF FLORIDA
COUNTY OF Flagler

The foregoing instrument was acknowledged before me by means of physical appearance or online notarization, this 6th day of March, 2023, by James E. Gardner, Jr., as Manager of **FLAGLER PINES PROPERTIES, LLC**, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced _____ as identification.



(Notary Seal)

Lori Amanda Hawkins
Notary Public (Signature)
Print Name: _____
My Commission Expires: _____

EXHIBIT A
Legal Description of Property

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 914, PAGE 84, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 89°09'05" WEST A DISTANCE OF 461.70 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 02°23'12" EAST A DISTANCE OF 270.13 FEET; THENCE SOUTH 89°09'20" WEST A DISTANCE OF 62.68 FEET; THENCE NORTH 00°47'58" WEST A DISTANCE OF 270.03 FEET TO A POINT ON THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 89°09'07" EAST A DISTANCE OF 55.20 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

AND

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 914, PAGE 84, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 89°09'05" WEST A DISTANCE OF 556.89 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 00°47'58" EAST A DISTANCE OF 270.02 FEET; THENCE SOUTH 89°09'20" WEST A DISTANCE OF 537.52 FEET; THENCE NORTH 00°13'49" WEST A DISTANCE OF 270.00 FEET TO A POINT ON THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 89°09'05" EAST A DISTANCE OF 534.83 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

EXHIBIT B
Permitted Exceptions

Taxes and assessments for the year 2023 and subsequent years, which are not yet due and payable.

ALANN ENGINEERING
 GROUP, INC.
 880 W. WINDY HILL RD.
 FLAGLER COUNTY, FL 32111
 TEL: (386) 673-7640
 FAX: (386) 673-9327



CORNERSTONE AT SEMINOLE WOODS
 FLAGLER COUNTY
 OUTPARCEL D - VARIANCE SITE PLAN



SCALE: 1"=20'
 20 0 20 40

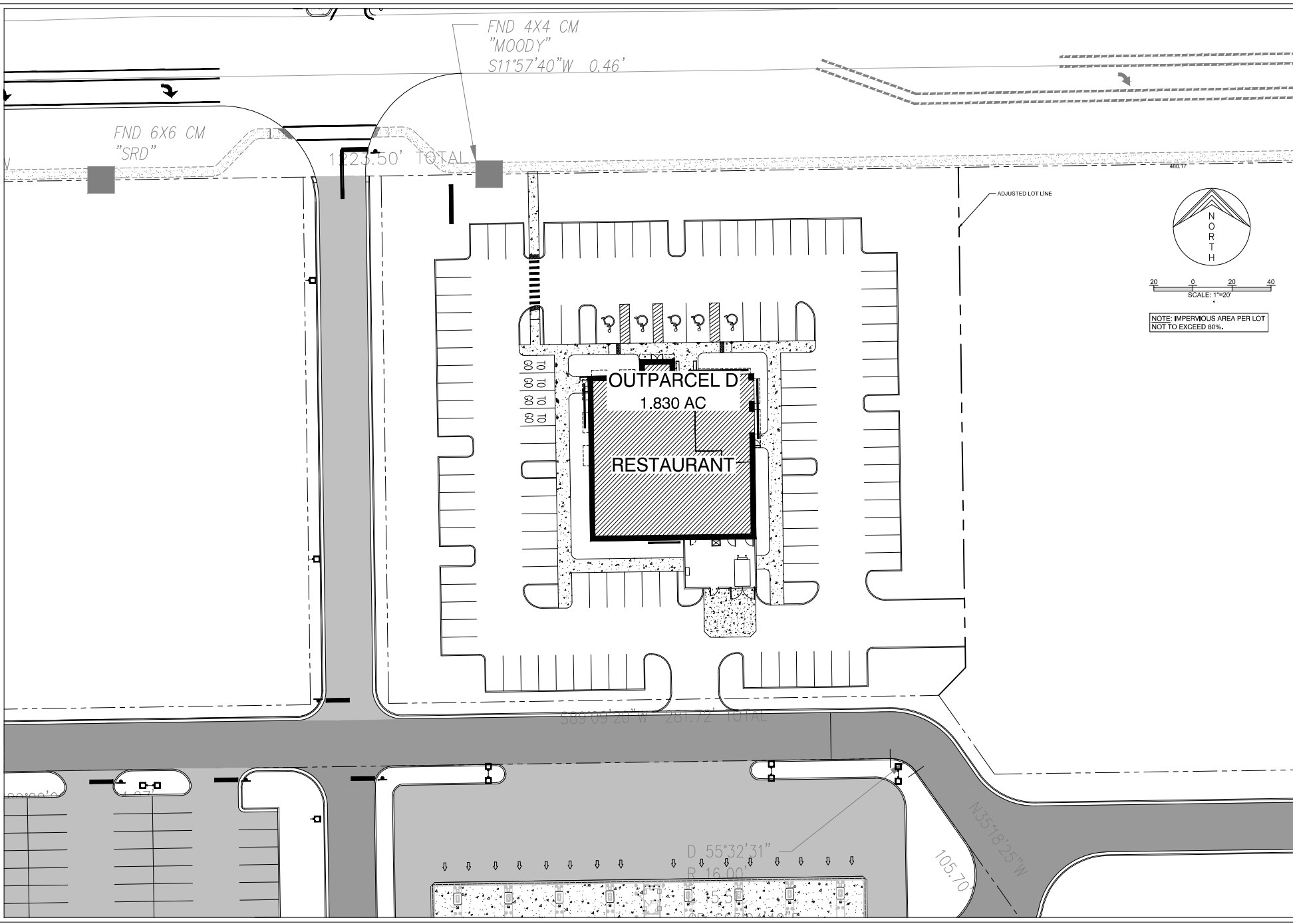
NOTE: IMPERVIOUS AREA PER LOT
 NOT TO EXCEED 80%.

NO.	DATE	BY

DISCORR	FILE	DATE	SCALE
KWB	2111-1	6/21/22	1"=20'
JAM / AMB	PROJECT		
	2111-1		

NOT TO SCALE. DIMENSIONS SHOWN ON THIS SHEET SHALL BE USED FOR CONSTRUCTION.

SHEET
C001



FND 4X4 CM
 "MOODY"
 S11°57'40"W 0.46'

FND 6X6 CM
 "SRD"

1723.50' TOTAL

OUTPARCEL D
 1.830 AC
 RESTAURANT

10
 10
 10
 10
 10
 10

D 55°32'31"
 R 16.00'

105.70

N35°18'25"W

FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 6 / 21 / 2023

VARIANCE TO MAXIMUM IMPERVIOUS AREA AT 80% IN THE C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT

APPLICANT: Alann Engineering Group, Inc. / OWNER: Seminole Woods Investments, LLC

Distribution date: June 16, 2023

Project #: 2023050064

Application #: 3373

Attached are departmental comments regarding your submittal to Flagler County for the above referenced project. **Any questions regarding any of the comments should be addressed to the department providing the comment.**

Flagler County Building Department	386-313-4002
Flagler County Planning Department	386-313-4009
Flagler County Development Engineering	386-313-4082
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 at this time.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time.

REVIEWING DEPARTMENT: COUNTY ENGINEERING

No comments at this time.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. General Comment:

This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Commercial Subdivision meets the zoning requirements.

REVIEWING DEPARTMENT: E-911 STAFF

No comments at this time.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No comments at this time.

REVIEWING DEPARTMENT: FIRE INSPECTOR

1. Fire has no issues with this.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.
2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 District requirements.



June 23, 2023

Gina Lemon
Flagler County Planning Services
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110

RE: App # 3373 – Cornerstone at Seminole Woods: Lot D Variance
Project # 2023050064 / AR # 4114

Dear Gina,

We are in receipt of comments for the referenced project. These comments were generated during the TRC review of the project and delivered to us on June 16th, 2023. We have revised our plans and submitted the material below for your review and approval:

1. Responses to Staff Comments (this letter)
2. Revised Variance Application

We offer the following responses to staff comments:

DEVELOPMENT ENGINEERING

1. This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Commercial Subdivision meets the zoning requirements.

RESPONSE: Noted. The project as a whole has slightly less than 50% impervious area.

FIRE INSPECTOR

1. Fire has no issues with this.

RESPONSE: Noted.

PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.

RESPONSE: The impervious area shown is the maximum allowable since some of the out-parcel users are unknown.

2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 District requirements.

RESPONSE: Please see revised page 2 attached to the application.

Should you have any questions or require additional information, please advise.

Sincerely,
The Alann Engineering Group, Inc.



Kimberly A. Buck, P.E.
President

cc: File

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considering in whole or part, creates an unnecessary hardship; and

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17.A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, a basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

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

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

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

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

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

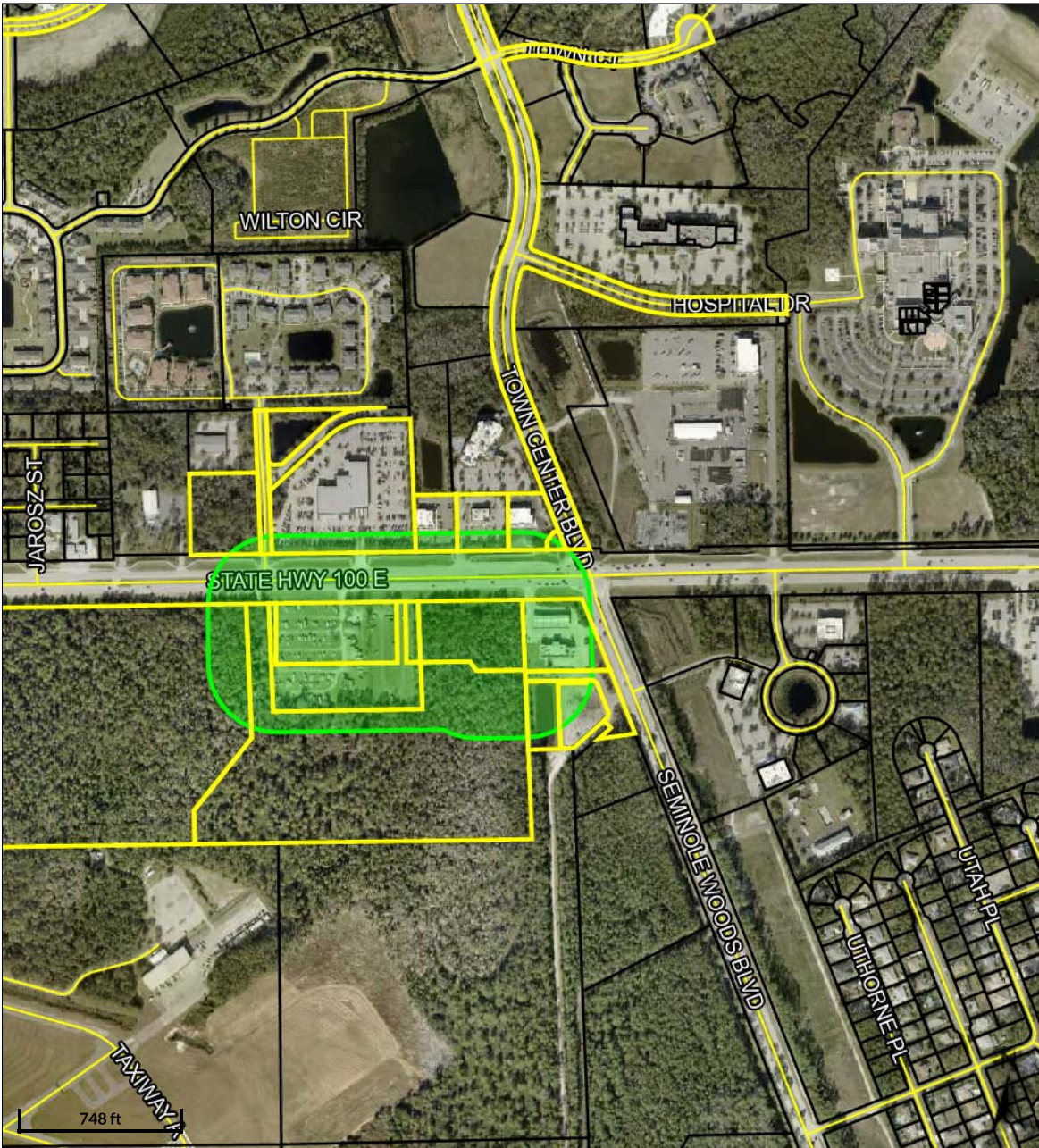
The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County,

Florida (“Annexation Agreement”). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City’s LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County’s LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant’s reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully requests that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.




App #3373 - Variance



Overview



Legend

-  Parcels
-  Roads
-  Streams and Rivers

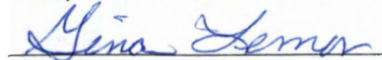
Date created: 6/22/2023
Last Data Uploaded: 6/22/2023 8:10:35 AM

Developed by  Schneider
GEOSPATIAL

App #3373
Variance

ParcelId	OwnerName	OwnerAddress1	OwnerAddress2	OwnerCityStZip
08-12-31-0650-000B0-0110	MCCORMICK 100 LLC		24 PORT ECHO LANE	PALM COAST, FL 32164
06-12-31-5815-00000-00J0	TOWN CENTER AT PALM COAST CDD		210 N UNIVERSITY DR SUITE 702	CORAL SPRINGS, FL 33071
08-12-31-0650-000A0-0093	CITY OF PALM COAST		160 LAKE AVENUE	PALM COAST, FL 32164
08-12-31-5816-00000-0010	PAUL DUGGAL FLORIDA LLC		1212 WICKHAM AVE FL ST	MIDDLETOWN, NY 10940
08-12-31-5816-00000-0030	PALM COAST STATION LLC	ATTN: TARAZ DARABI	4140 NW 37TH PLACE STE A	GAINESVILLE, FL 32606
06-12-31-5815-00000-00A1	CITY OF PALM COAST		160 LAKE AVENUE	PALM COAST, FL 32164
08-12-31-5816-00000-0020	MDC COAST 17 LLC		11995 EL CAMINO REAL	SAN DIEGO, CA 92130
08-12-31-0176-00000-0010	RACETRAC PETROLEUM INC	C/O SILVER OAK ADVISORS LLC	200 GALLERIA PARKWAY	ATLANTA, GA 30339
08-12-31-0176-00000-00B0	SEMINOLE/SR 100 PROPERTY OWNERS ASSOC, INC		577 BARNES BLVD SUITE 650	ROCKLEDGE, FL 32955
08-12-31-0176-00000-0020	MI VENTURES GROUP LLC		577 BARNES BLVD 650	ROCKLEDGE, FL 32955
08-12-31-0176-00000-00A0	SEMINOLE/SR 100 PROPERTY OWNERS ASSOC, INC		577 BARNES BLVD SUITE 650	ROCKLEDGE, FL 32955
08-12-31-0650-000A0-0090	TLG LLC		5850 E HWY 100	PALM COAST, FL 32164
08-12-31-0650-000B0-0070	FLAGLER PINES PROPERTIES LLC		4 LAMBERT COVE	FLAGLER BEACH, FL 32136
08-12-31-0650-000D0-0051	SEMINOLE WOODS INVESTMENTS, LLC		7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940
08-12-31-0650-000D0-0050	BJ'S WHOLESALE CLUB, INC		350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0071	BJS WHOLESALE CLUB INC		350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0074	SEMINOLE WOODS INVESTMENTS, LLC		7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940

I hereby affirm mailed notice to each owner on 7/24/2023 for the Planning and Development Board meeting on 8/8/2023 at 6:00 pm.



Gina Lemon, Development Review Planner III

Growth Management Department
Planning & Development
1769 E. Moody Blvd, Bldg. 2
Bunnell, FL 32110



www.flaglercounty.org
Phone: (386)313-4009
Fax: (386)313-4109

July 24, 2023

SEMINOLE WOODS INVESTMENTS, LLC
7331 OFFICE PARK PLACE SUITE 200
MELBOURNE, FL 32940

RE: Application #3373 – Variance to Exceed Maximum Impervious Area in the
C-2 (General Commercial and Shopping Center) District

Dear Property Owner:

As owner of property within 300' of the property referenced herein, the Flagler County Planning Department, in accordance with Section 2.07.00 of the Flagler County Land Development Code, advises you that:

A request has been made by applicant Alann Engineering Group, Inc. on behalf of owner Seminole Woods Investment, LLC for a Variance to allow the maximum impervious area up to 80%, the minimum pervious area required in the C-2 District is a minimum of 30% on the subject property as identified proposed Parcel D, in the Preliminary Plat known as Cornerstone at Seminole Woods and known as Parcel Number: 08-12-31-0650-000D0-0051 and 08-12-31-0650-000B0-0074.

You are hereby notified that a public hearing before the **Flagler County Planning and Development Board**, required by law, will be held in the Flagler County Government Services Building, Board Chambers, at 1769 East Moody Boulevard, Building 2, Bunnell, Florida, on **August 8, 2023**, beginning at **6:00 p.m.** or as soon thereafter as possible.

You are welcome to attend and express your opinion.

Sincerely,

Gina Lemon
Development Review Planner III

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDED TO APPEAL ANY DECISION BY THE BOARD, AGENCY OR COMMISSION WITHRESPECT 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 VERBATUM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTAMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

Andy Dance
District 1

Greg Hansen
District 2

David Sullivan
District 3

Leann Pennington
District 4

Donald O'Brien, Jr.
District 5

APPLICATION # 3373
NOTICE OF PUBLIC HEARING
THE FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD WILL HOLD A PUBLIC HEARING AT:
FLAGLER COUNTY GOVERNMENT SERVICES BUILDING BOARD CHAMBERS
1769 E. MOODY BOULEVARD, BLDG 2; BUNNELL, FL 32110
August 8, 2023 @ 6:00 PM
REQUEST: **80% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**
Parcel Number: 08-12-31-0650-00000-0051 & 08-12-31-0650-00000-0074
Zoning District: C-2 DISTRICT
THE PUBLIC HEARING IS BEING HELD FOR THE PURPOSE OF HEARING ANY AND ALL INTERESTED PARTIES AND PERSONS WHO MAY BE FOR OR AGAINST THE APPLICATION, RELATIVE TO THE PROPERTY WHEREON THIS NOTICE IS POSTED.
For additional information visit web page at: www.flaglercounty.gov or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE.

APPLICATION # 3375
NOTICE OF PUBLIC HEARING
THE FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD WILL HOLD A PUBLIC HEARING AT:
FLAGLER COUNTY GOVERNMENT SERVICES BUILDING BOARD CHAMBERS
1769 E. MOODY BOULEVARD, BLDG 2; BUNNELL, FL 32110
August 8, 2023 @ 6:00 PM
REQUEST: **90% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**
Parcel Number: 08-12-31-0650-00000-0074 & 08-12-31-0650-00000-0050
Zoning District: C-2 DISTRICT
THE PUBLIC HEARING IS BEING HELD FOR THE PURPOSE OF HEARING ANY AND ALL INTERESTED PARTIES AND PERSONS WHO MAY BE FOR OR AGAINST THE APPLICATION, RELATIVE TO THE PROPERTY WHEREON THIS NOTICE IS POSTED.
For additional information visit web page at: www.flaglercounty.gov or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE.

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING/AGENDA ITEM #8**

SUBJECT: QUASI-JUDICIAL – Application #3374 – Request for a variance to exceed the maximum impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot E, Cornerstone at Seminole Woods. Parcel No. 08-12-31-0650-000B0-0074; 2.35 +/- acres. Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc. (Project #2023050065).

DATE OF MEETING: July 11, 2023 August 8, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is to exceed the impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot E, Cornerstone at Seminole Woods. This proposed parcel is 2.35+/- acres in size, identified as Parcel No. 08-12-31-0650-000B0-0074:



On May 23, 2023, Alann Engineering Group, Inc. submitted an application for a variance to exceed the maximum allowable impervious area. This request is prior to commencement of construction.

The subject property is described as proposed Lot E of the Cornerstone at Seminole Woods subdivision, the plat is at preliminary approval and not yet recorded in the Public Records of Flagler County, Florida.

This application was reviewed by the Technical Review Committee (TRC) at its June 21, 2023 meeting. The Technical Review Committee provided comments to be addressed by the applicant, and the applicant provided their response.

Public notice has been provided for this application according to Flagler County Land Development Code Section 2.07.00.

This agenda item is:

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

OPTIONS FOR THE BOARD:

APPROVAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3374 to exceed the impervious area up to a maximum of 80 percent on proposed Lot E, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000B0-0074).

DENIAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have not been met and therefore denies Application #3374 to exceed the impervious area up to a maximum of 80 percent on proposed Lot E, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000B0-0074).

CONTINUANCE: The Planning and Development Board continues the variance request on the basis that additional information is needed from staff or the applicant. Based on the presentation and the public hearing, the Board does not have sufficient information to be able to render a decision on the variance request. Continuing the variance request to a time and date certain will preserve public notice and provide an opportunity for staff or the applicant to provide additional information.

ATTACHMENTS:

1. Technical Staff Report
2. Application and supporting documents
3. TRC comments
4. Applicant's response to TRC comments
5. Public notice

**APPLICATION #3374
VARIANCE IMPERVIOUS AREA UP TO MAXIMUM OF 80%
IN THE C-2 DISTRICT
PROPOSED LOT E, CORNERSTONE AT SEMINOLE WOODS
TECHNICAL STAFF REPORT**

Application/Project #: 3374/2023050065

Address: Not assigned (Proposed Lot E, Cornerstone at Seminole Woods)

Owner: Seminole Woods Investments, LLC

Applicant: Alann Engineering Group, Inc.

Parcel #: 08-12-31-0650-000B0-0074

Parcel Size: 2.35+/- acres

Legal Description: Proposed Lot E, Cornerstone at Seminole Woods

Existing Zoning and Land Use Classification:

Zoning: C-2 (General Commercial and Shopping Center) District

Land Use: Commercial High Intensity

Future Land Use Map Classification/Zoning of Surrounding Land:

North: State Road 100

East: City of Palm Coast commercial

South: Industrial/I (Industrial) zoning district

West: Commercial: High Intensity and Industrial/ C-2 (General Commercial and Shopping Center) and I (Industrial) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.17, C-2 – *General commercial and shopping center district*; Section 3.07.03, *Procedure for variances and special exceptions*; Section 3.07.03.E, *Variance guidelines*.

General description of request

Variance Guideline Analysis

LDC Section 3.07.03.E, *Variance guidelines*, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant's statements (included below and attached in their entirety) and staff's analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and*

The development as a whole (which is now it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for – such is the hardship in this case.

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC, Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than the 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

Staff analysis: The County's C-2 (General commercial and shopping center) zoning district provides dimensional requirements for shopping centers (where tenants lease

space held under common ownership) based on project size, while general commercial development (where parcels are individually described and separately owned) is based on lot size. Regardless of the shopping center or general commercial approach within the C-2 zoning district, the minimum pervious area is set as thirty (30) percent. Using the inverse of the minimum pervious area, the maximum impervious area would be set at 70% of the parcel area.

The County's Land Development Code does not provide for a master planned development – inclusive of common elements – outside of a Planned Unit Development (PUD). It was originally anticipated that the BJ's Wholesale Club parcel (Proposed Lot F) would begin its vertical development through a County-issued building permit, with the Cornerstone at Seminole Woods plat to be completed prior to annexation into the City of Palm Coast. Individual building permits for the outparcels were to follow final plat approval, and the BJ's permit would be completed by the County following annexation. Aside from discussions with the developer, the County has no formal agreement with the developer as to process. The timing of the development of the Cornerstone project is (for the most part) to be guided by the Pre-Annexation Agreement between the developer and the City. The County is not a party to the Pre-Annexation Agreement, and would not enforce any of its provisions inclusive of the timing of development.

However, the developer has opted instead to pursue development of individual lots now prior to annexation. While the County is not opposed to this approach, it creates the current need for the variance for each of the proposed lots since stormwater is handled through a master stormwater system, enabling each lot to maximize its buildout as would be consistent with a master planned development (as opposed to a single commercial use as is anticipated by the C-2 zoning district).

Development of proposed Lot E has been proposed for a Longhorn Steakhouse, and will be the easternmost 1.612+/- acres of the current limits of proposed Lot E. While larger than the other proposed lots, Lot E would still require the variance due to the increased parking that is sought by the use. As for the timing of the final plat – which varies from the preliminary plat – the development of the subject parcel can occur without final plat approval since it predominantly conforms to the existing parcel boundaries. The County can permit single developments occurring on identified parcels, but multiple developments on a single parcel – without a plat – is not permitted by the County's Land Development Code.

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

Applicant's response: The conditions were not created by the applicant – the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria for this scenario, but Flagler County do not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

Staff analysis: Had the project annexed into the City as originally discussed, the variance to exceed the impervious area would not have been necessary. The delay in annexation – and the permit submittal for the proposed outparcels – have made the variance necessary.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code.

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the

community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

Staff analysis: Hindsight as to the intended pace of development would have made the Planned Unit Development (PUD) and completion of the subdivision plat a more prudent decision instead of multiple variances. Even with the need for the mix of variances for this project, the approval does not cause substantial detriment to the public health, welfare, safety, and morals of the community.

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

Applicant's response: The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed – it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

Staff analysis: The proposed use is a permitted use in the C-2 zoning district. Granting the variance would not permit a use other than those listed within the C-2 zoning district.

County staff disagrees with the applicant's assertion that the County missed the impervious limit in its prior reviews. Impervious area – like other dimensional requirements – is determined at the site plan level for each parcel's development, something that was not previously contemplated (or approved) through prior reviews by the County. For example, a proposed restaurant – and its layout – was not approved by the County through the preliminary plat. Specificity comes through successive submittals and review (and approval) steps. And as a final point, the development of individual lots and their conformity to the County's requirements was

viewed as moot by the County due to the pending annexation: the development of each of the lots were to satisfy City requirements, not County requirements. The delay in the annexation into the City has prompted the need for the variance.

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

Applicant's response: The variance will be the minimum necessary to alleviate the hardship.

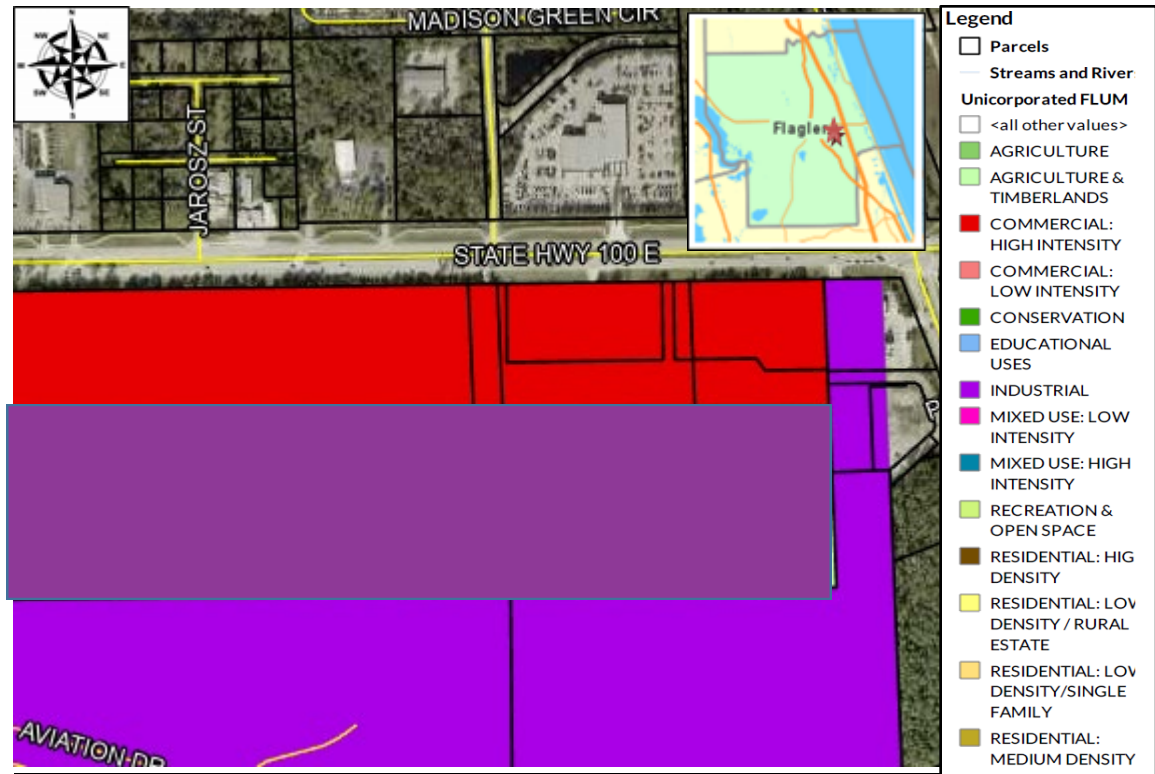
The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe that it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County, Florida ("Annexation Agreement"). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City's LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County's LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant's reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

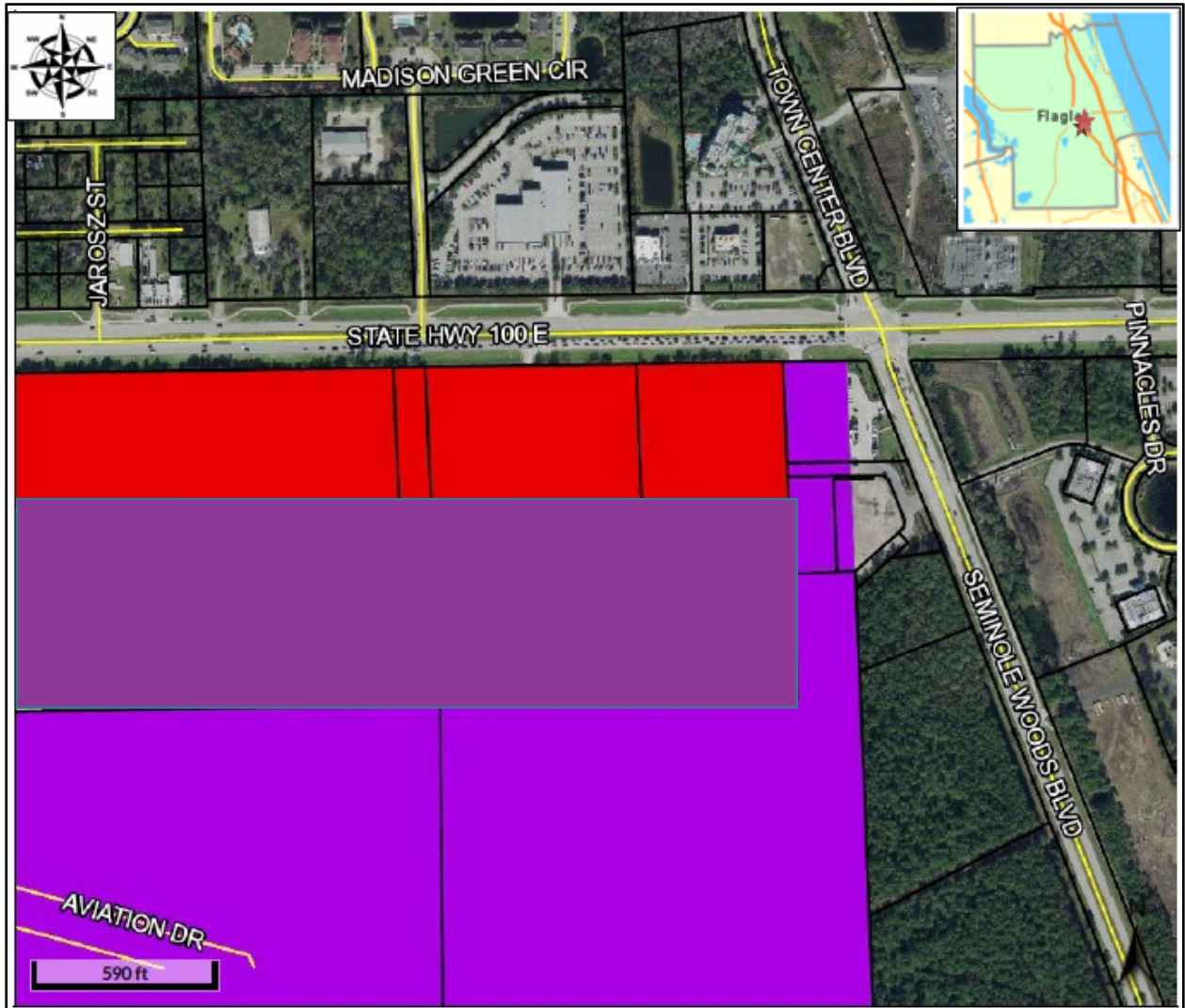
For all of the reasons stated above, the applicant respectfully request that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

Staff analysis: The requested variance is the minimum variance needed to alleviate the hardship. County staff does not agree with the applicant's interpretation of the applicability of the C-2 zoning's dimensional requirements. As for the Pre-Annexation Agreement, the developer is dependent on the City for its utilities regardless of whether or not the applicant was a party to the Settlement Agreement. The County does not separately have available utilities to serve the proposed project.

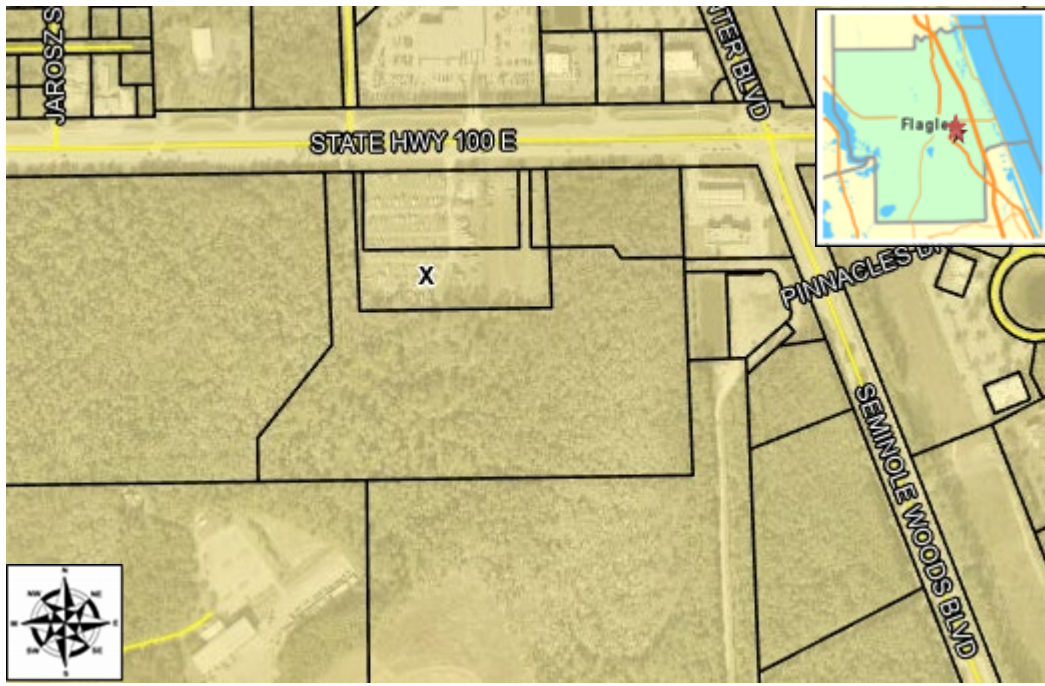
Future Land Use



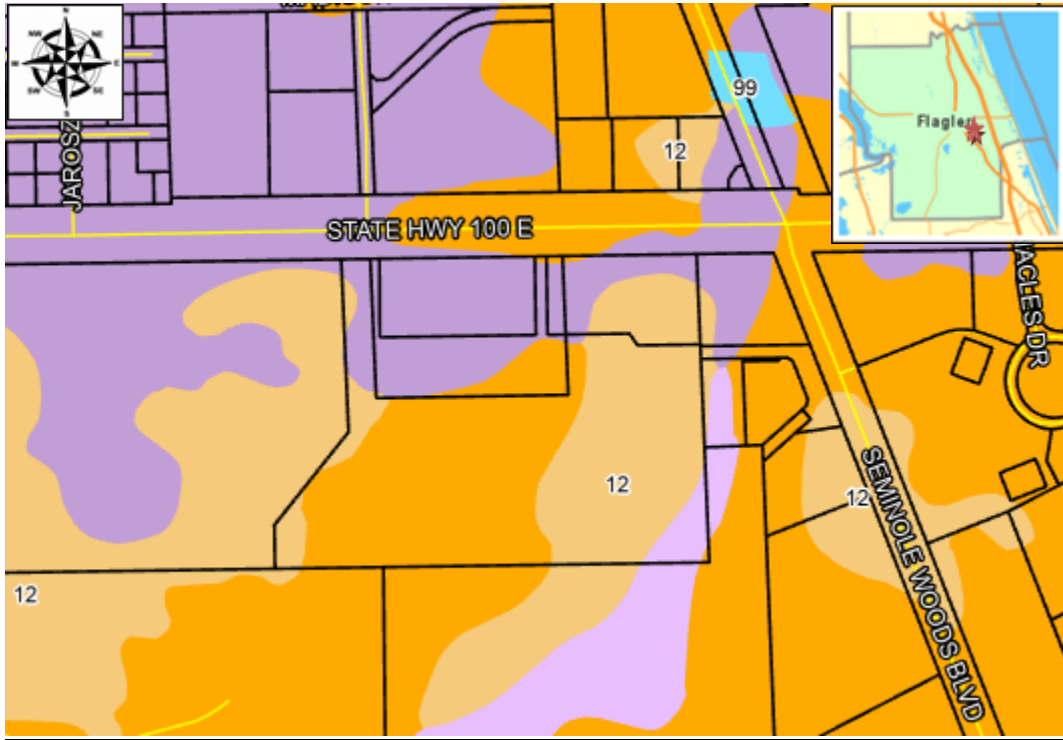
Zoning



Flood Zone

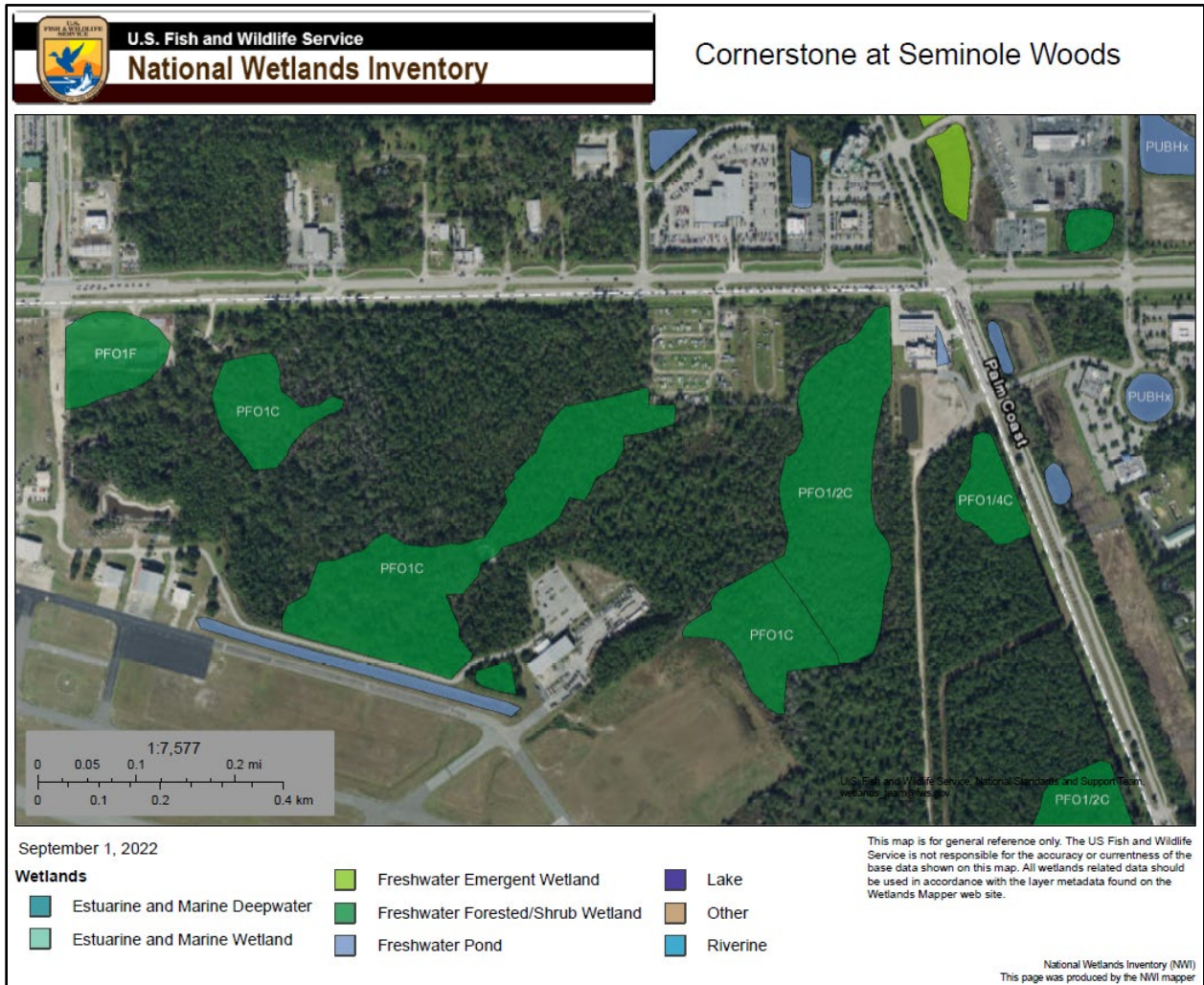


Soils



Soil Types
12 Placid, Basinger and St Johns soils, depressional
19 Valkaria fine sand
21 Smyrna fine sand

Wetlands



**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING/AGENDA ITEM #8**

SUBJECT: QUASI-JUDICIAL – Application #3374 – Request for a variance to exceed the maximum impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot E, Cornerstone at Seminole Woods. Parcel No. 08-12-31-0650-000B0-0074; 2.35 +/- acres. Owner: Seminole Woods Investments, LLC/Applicant: Alann Engineering Group, Inc. (Project #2023050065).

DATE OF MEETING: July 11, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is to exceed the impervious area from 70% to 80% in the C-2 (General Commercial and Shopping Center) District at proposed Lot E, Cornerstone at Seminole Woods. This proposed parcel is 2.35+/- acres in size, identified as Parcel No. 08-12-31-0650-000B0-0074:



On May 23, 2023, Alann Engineering Group, Inc. submitted an application for a variance to exceed the maximum allowable impervious area. This request is prior to commencement of construction.

The subject property is described as proposed Lot E of the Cornerstone at Seminole Woods subdivision, the plat is at preliminary approval and not yet recorded in the Public Records of Flagler County, Florida.

This application was reviewed by the Technical Review Committee (TRC) at its June 21, 2023 meeting. The Technical Review Committee provided comments to be addressed by the applicant, and the applicant provided their response.

Public notice has been provided for this application according to Flagler County Land Development Code Section 2.07.00.

This agenda item is:

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

OPTIONS FOR THE BOARD:

APPROVAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3374 to exceed the impervious area up to a maximum of 80 percent on proposed Lot E, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000B0-0074).

DENIAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have not been met and therefore denies Application #3374 to exceed the impervious area up to a maximum of 80 percent on proposed Lot E, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000B0-0074).

CONTINUANCE: The Planning and Development Board continues the variance request on the basis that additional information is needed from staff or the applicant. Based on the presentation and the public hearing, the Board does not have sufficient information to be able to render a decision on the variance request. Continuing the variance request to a time and date certain will preserve public notice and provide an opportunity for staff or the applicant to provide additional information.

ATTACHMENTS:

1. Technical Staff Report
2. Application and supporting documents
3. TRC comments
4. Applicant's response to TRC comments
5. Public notice

**APPLICATION #3374
VARIANCE IMPERVIOUS AREA UP TO MAXIMUM OF 80%
IN THE C-2 DISTRICT
PROPOSED LOT E, CORNERSTONE AT SEMINOLE WOODS
TECHNICAL STAFF REPORT**

Application/Project #: 3374/2023050065

Address: Not assigned (Proposed Lot E, Cornerstone at Seminole Woods)

Owner: Seminole Woods Investments, LLC

Applicant: Alann Engineering Group, Inc.

Parcel #: 08-12-31-0650-000B0-0074

Parcel Size: 2.35+/- acres

Legal Description: Proposed Lot E, Cornerstone at Seminole Woods

Existing Zoning and Land Use Classification:

Zoning: C-2 (General Commercial and Shopping Center) District

Land Use: Commercial High Intensity

Future Land Use Map Classification/Zoning of Surrounding Land:

North: State Road 100

East: City of Palm Coast commercial

South: Industrial/I (Industrial) zoning district

West: Commercial: High Intensity and Industrial/ C-2 (General Commercial and Shopping Center) and I (Industrial) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.17, C-2 – *General commercial and shopping center district*; Section 3.07.03, *Procedure for variances and special exceptions*; Section 3.07.03.E, *Variance guidelines*.

General description of request

Variance Guideline Analysis

LDC Section 3.07.03.E, *Variance guidelines*, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant's statements (included below and attached in their entirety) and staff's analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and*

The development as a whole (which is now it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for – such is the hardship in this case.

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC, Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than the 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

Staff analysis: The County's C-2 (General commercial and shopping center) zoning district provides dimensional requirements for shopping centers (where tenants lease

space held under common ownership) based on project size, while general commercial development (where parcels are individually described and separately owned) is based on lot size. Regardless of the shopping center or general commercial approach within the C-2 zoning district, the minimum pervious area is set as thirty (30) percent. Using the inverse of the minimum pervious area, the maximum impervious area would be set at 70% of the parcel area.

The County's Land Development Code does not provide for a master planned development – inclusive of common elements – outside of a Planned Unit Development (PUD). It was originally anticipated that the BJ's Wholesale Club parcel (Proposed Lot F) would begin its vertical development through a County-issued building permit, with the Cornerstone at Seminole Woods plat to be completed prior to annexation into the City of Palm Coast. Individual building permits for the outparcels were to follow final plat approval, and the BJ's permit would be completed by the County following annexation. Aside from discussions with the developer, the County has no formal agreement with the developer as to process. The timing of the development of the Cornerstone project is (for the most part) to be guided by the Pre-Annexation Agreement between the developer and the City. The County is not a party to the Pre-Annexation Agreement, and would not enforce any of its provisions inclusive of the timing of development.

However, the developer has opted instead to pursue development of individual lots now prior to annexation. While the County is not opposed to this approach, it creates the current need for the variance for each of the proposed lots since stormwater is handled through a master stormwater system, enabling each lot to maximize its buildout as would be consistent with a master planned development (as opposed to a single commercial use as is anticipated by the C-2 zoning district).

Development of proposed Lot E has been proposed for a Longhorn Steakhouse, and will be the easternmost 1.612+/- acres of the current limits of proposed Lot E. While larger than the other proposed lots, Lot E would still require the variance due to the increased parking that is sought by the use. As for the timing of the final plat – which varies from the preliminary plat – the development of the subject parcel can occur without final plat approval since it predominantly conforms to the existing parcel boundaries. The County can permit single developments occurring on identified parcels, but multiple developments on a single parcel – without a plat – is not permitted by the County's Land Development Code.

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

Applicant's response: The conditions were not created by the applicant – the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria for this scenario, but Flagler County do not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

Staff analysis: Had the project annexed into the City as originally discussed, the variance to exceed the impervious area would not have been necessary. The delay in annexation – and the permit submittal for the proposed outparcels – have made the variance necessary.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code.

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the

community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

Staff analysis: Hindsight as to the intended pace of development would have made the Planned Unit Development (PUD) and completion of the subdivision plat a more prudent decision instead of multiple variances. Even with the need for the mix of variances for this project, the approval does not cause substantial detriment to the public health, welfare, safety, and morals of the community.

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

Applicant's response: The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed – it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

Staff analysis: The proposed use is a permitted use in the C-2 zoning district. Granting the variance would not permit a use other than those listed within the C-2 zoning district.

County staff disagrees with the applicant's assertion that the County missed the impervious limit in its prior reviews. Impervious area – like other dimensional requirements – is determined at the site plan level for each parcel's development, something that was not previously contemplated (or approved) through prior reviews by the County. For example, a proposed restaurant – and its layout – was not approved by the County through the preliminary plat. Specificity comes through successive submittals and review (and approval) steps. And as a final point, the development of individual lots and their conformity to the County's requirements was

viewed as moot by the County due to the pending annexation: the development of each of the lots were to satisfy City requirements, not County requirements. The delay in the annexation into the City has prompted the need for the variance.

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

Applicant's response: The variance will be the minimum necessary to alleviate the hardship.

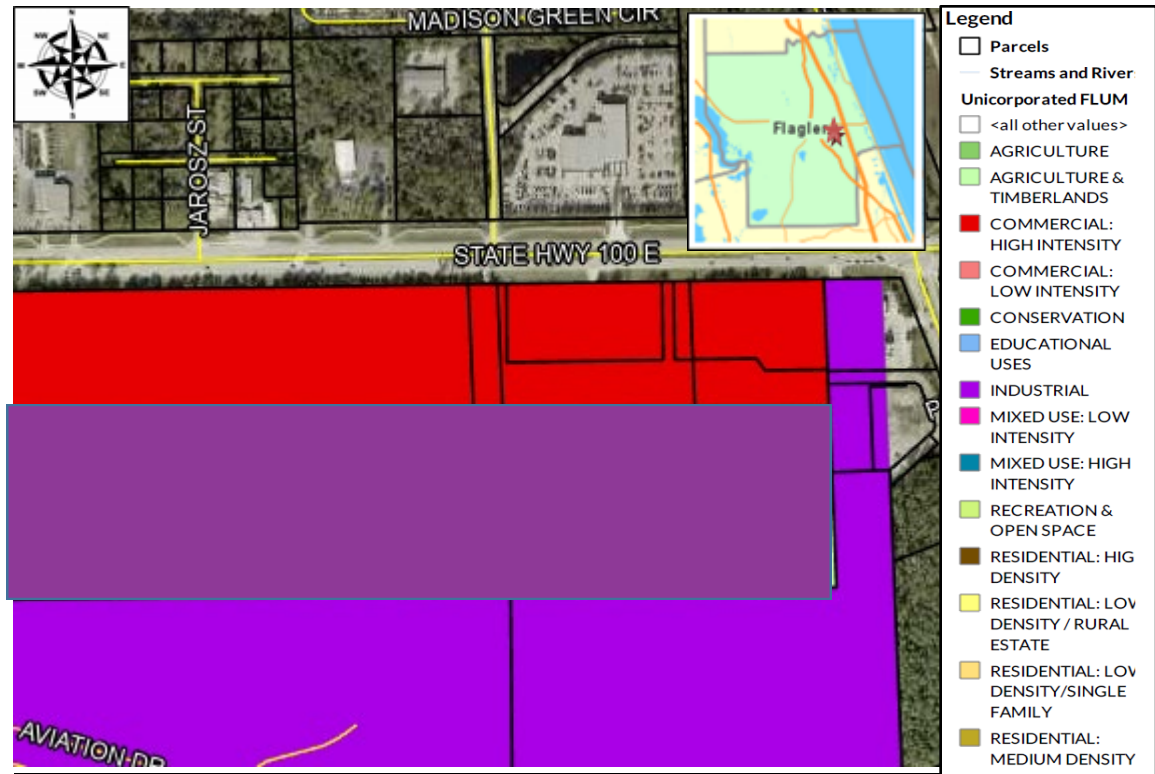
The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe that it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County, Florida ("Annexation Agreement"). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City's LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County's LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant's reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

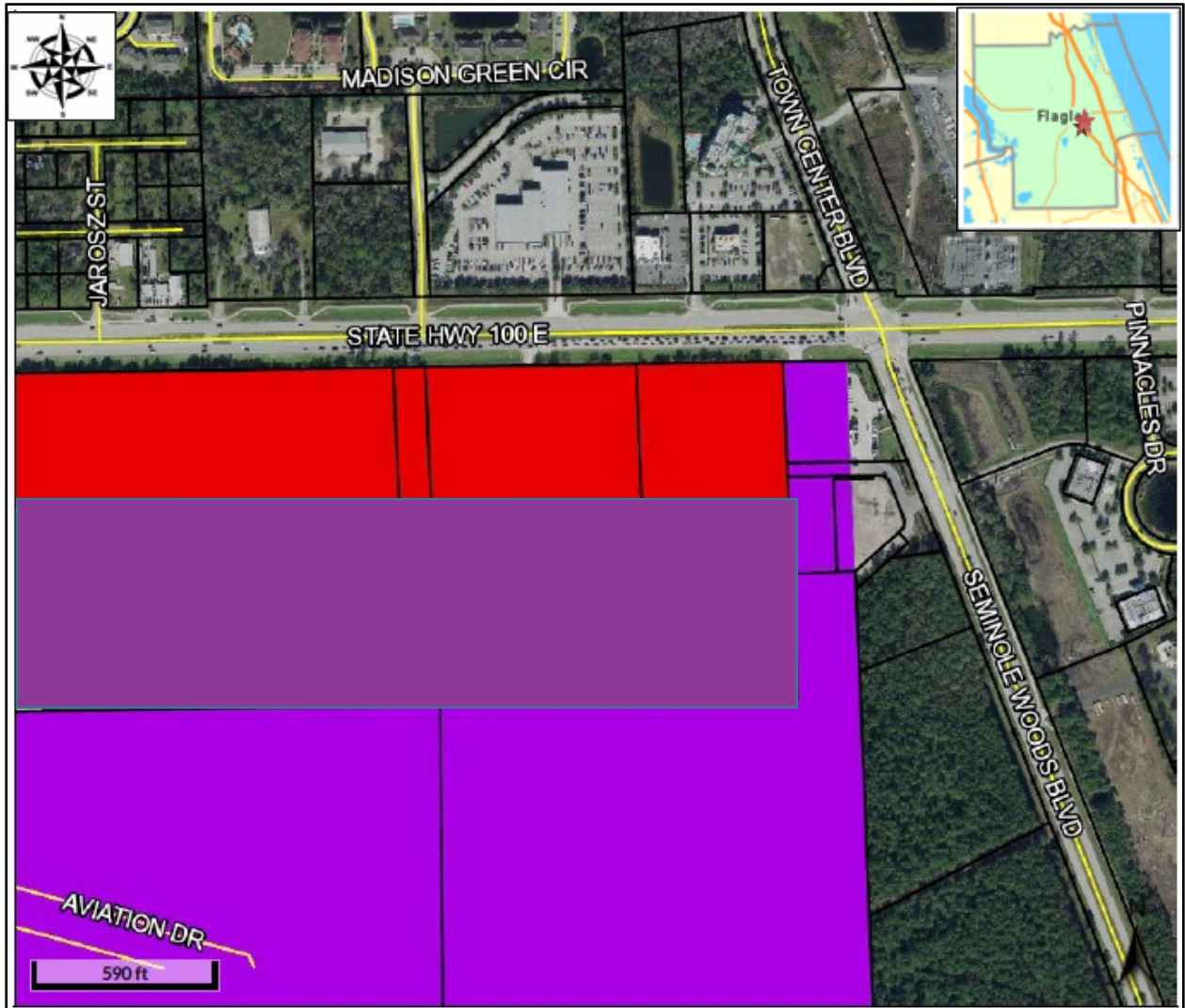
For all of the reasons stated above, the applicant respectfully request that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

Staff analysis: The requested variance is the minimum variance needed to alleviate the hardship. County staff does not agree with the applicant's interpretation of the applicability of the C-2 zoning's dimensional requirements. As for the Pre-Annexation Agreement, the developer is dependent on the City for its utilities regardless of whether or not the applicant was a party to the Settlement Agreement. The County does not separately have available utilities to serve the proposed project.

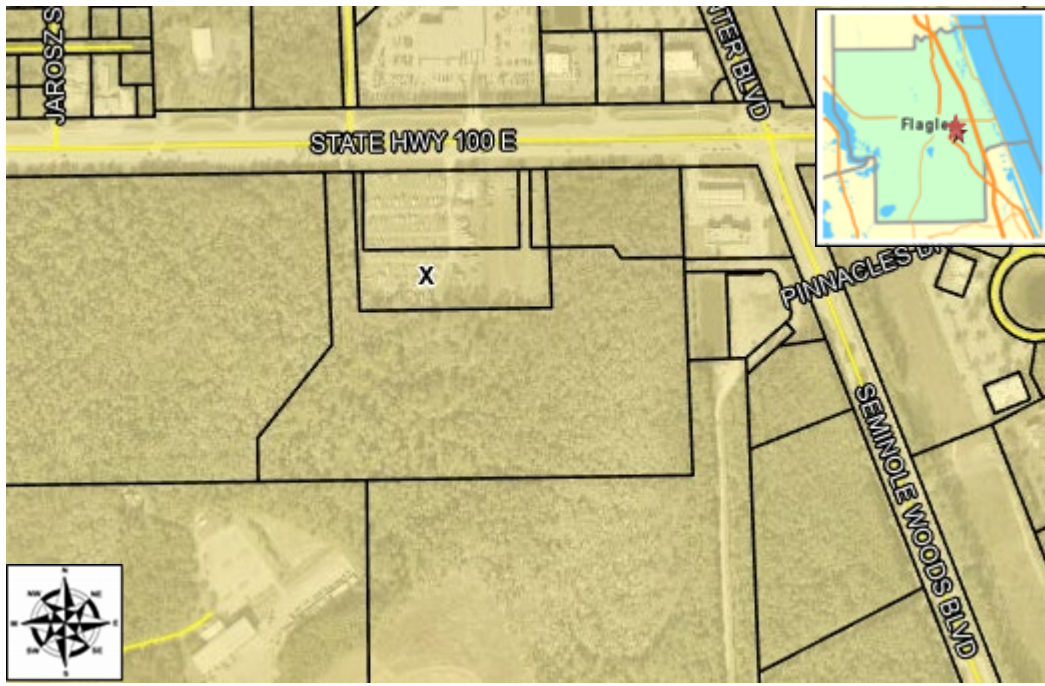
Future Land Use



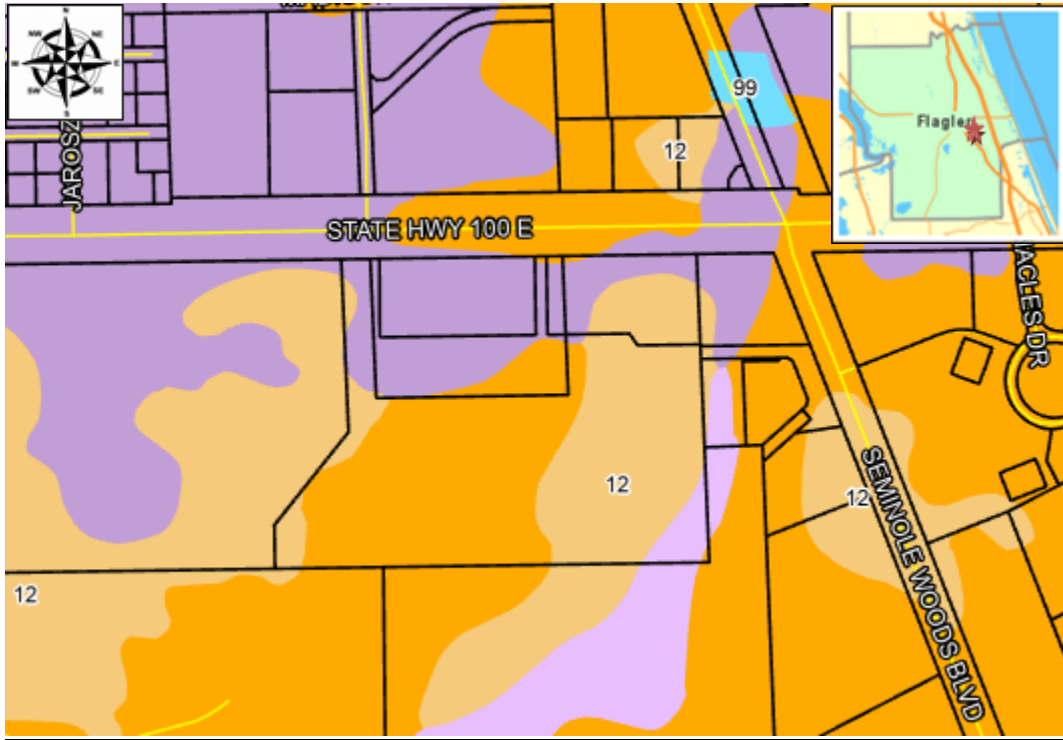
Zoning



Flood Zone

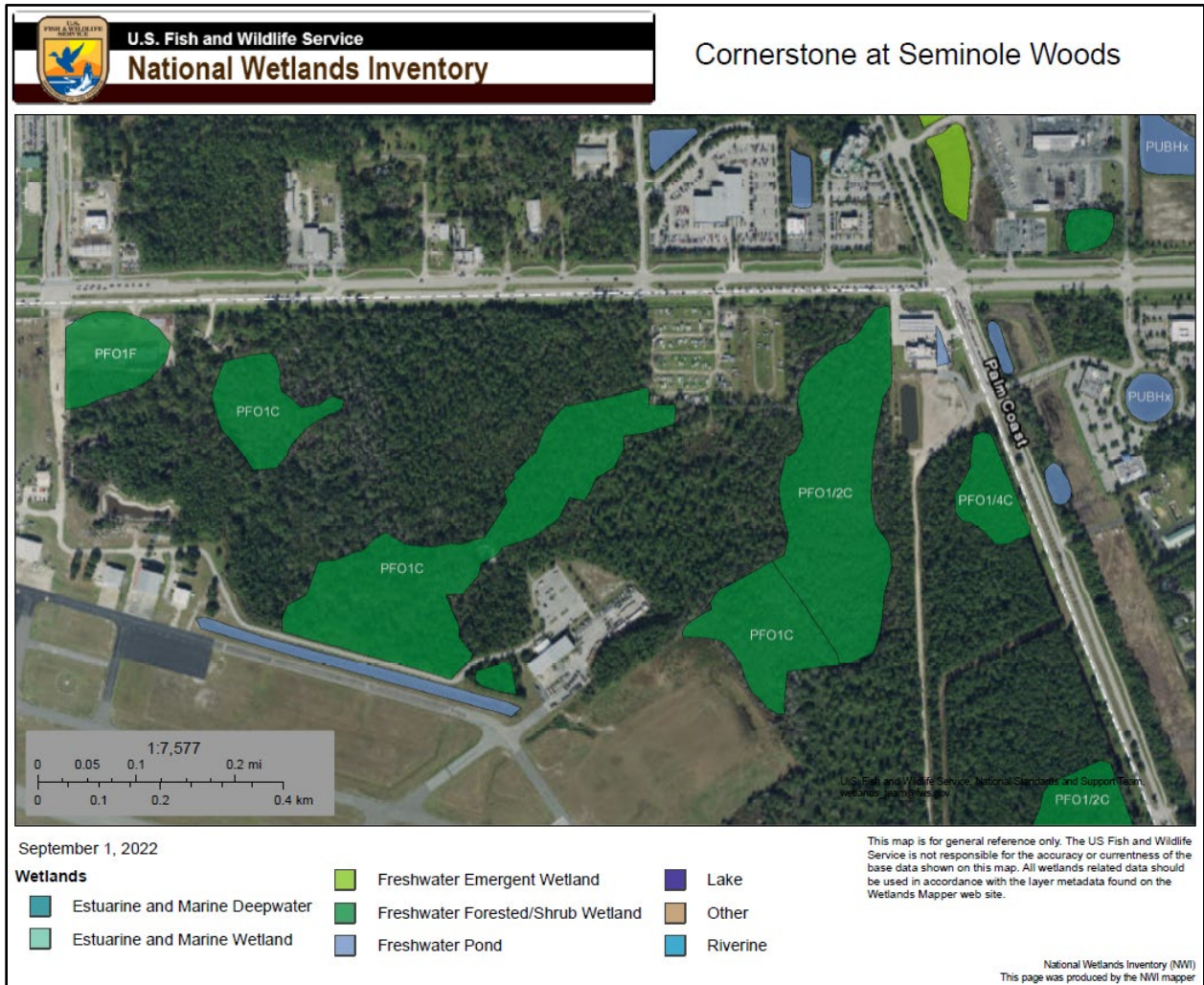


Soils



Soil Types
12 Placid, Basinger and St Johns soils, depressional
19 Valkaria fine sand
21 Smyrna fine sand

Wetlands





APPLICATION FOR VARIANCE

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


Application/Project #: 3374 / 2023050065

PROPERTY OWNER(S)	Name(s): Matthew Williams, Seminole Woods Investments, LLC		
	Mailing Address: 7331 Office Park PI Ste 200 Melbourne FL 32940 and 350 Campus Drive, Marlborough MA 01752		
	City: Melbourne	State: Florida	Zip: 32940
	Telephone Number 321-254-2400	Fax Number n/a	

APPLICANT/AGENT	Name(s): Kimberly A. Buck, Alann Engineering Group, Inc.		
	Mailing Address: 880 Airport Rd., Suite 113		
	City: Ormond Beach	State: FL	Zip: 32174
	Telephone Number 386-673-7640	Fax Number n/a	
	E-Mail Address: kim.buck@ae-group.com		

SUBJECT PROPERTY	SITE LOCATION (street address):	5877 State Hwy 100 E, Palm Coast, FL 23164	
	LEGAL DESCRIPTION: (briefly describe, do not use "see attached")	Parcel of land located in Sec 8, T 12 S, R 31 E, in Flagler County, FL.	
	Parcel # (tax ID #):	08-12-31-0650-000B0-0074	
	Parcel Size:	Lot E: 2.35 Acres	
	Current Zoning Classification:	Planned Unit Development	
	Current Future Land Use Designation	Commercial: High Intensity	
	Subject to A1A Scenic Corridor IDO?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO

Relief Requested: To allow for an increase of impervious area to 80%.



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

05/23/2023

 Date

****OFFICIAL USE ONLY****

PLANNING BOARD RECOMMENDATION/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. 09/16



APPLICATION FOR VARIANCE

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

Subject Property: 5877 State Hwy 100 E, Palm Coast, FL 23164

E. *Variance guidelines.* A variance may be granted, upon application, from the terms and provisions of this article as will not be contrary to the public health, safety, welfare and morals where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship. Such variances may be granted by the planning board in such individual case of unnecessary hardship upon a written finding that:

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or part, creates an unnecessary hardship; and

The development as a whole (which is how it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for - such is the hardship in this case.

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

The conditions were not created by the applicant - the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code

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

The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed - it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

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

The variance will be the minimum necessary to alleviate the hardship.



Owner's Authorization for Applicant/Agent

FLAGLER COUNTY, FLORIDA

1769 E. Moody Boulevard, Suite 105

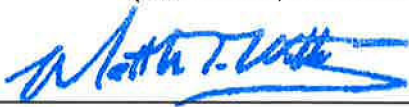
Bunnell, FL 32110

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

Application/Project # _____

Alann Engineering Group, Inc. _____, is hereby authorized TO ACT ON BEHALF OF Seminole Woods Investments, LLC, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Flagler County, Florida for an application for variance to impervious percentage requirement.

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

By: 
Signature of Owner

Matthew T. Williams
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)

7331 Office Park Place Suite 200
Mailing Address

321-254-2400

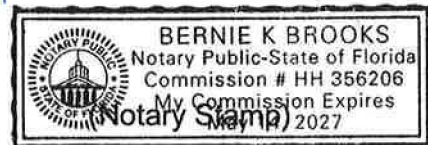
Melbourne FL 32940
City State Zip

STATE OF Florida

COUNTY OF Brevard

The foregoing was acknowledged before me this 22 day of May, 2023 by Matthew T. Williams 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.


Signature of Notary Public



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

Revised 5/08

Prepared by (and return to):

Michael P. Maguire, Esq.
Maguire Law Group
3300 Henderson Blvd., Suite 206A
Tampa, FL 33609

**CORRECTIVE DEED IS BEING RECORDED
TO CORRECT LEGAL DESCRIPTION
SHOWN ON O.R. BOOK 2769 PAGE 385**

Parcel Identification Number(s): 08-12-31-0650-000B0-0071

SPECIAL WARRANTY DEED

THIS INDENTURE is made and entered into as of the 6th day of April ~~March~~, 2023, by and between **FLAGLER AIRPORT INDUSTRIAL, LLC**, a Florida limited liability company ("Grantor"), whose mailing address is 4 Lambert Cove, Flagler Beach, Florida 32136, and **SEMINOLE WOODS INVESTMENTS, LLC**, a Florida limited liability company ("Grantee"), whose mailing address is 7331 Office Park Place, Suite 200, Melbourne, Florida 32940.

WITNESSETH, that Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold, alienated, remised, released, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alienate, remise, release, convey and confirm unto Grantee, and Grantee's heirs, successors and assigns forever, the following described real property in the County of Flagler, State of Florida, to-wit:

SEE EXHIBIT A ATTACHED HERETO
AND INCORPORATED HEREIN BY REFERENCE THERETO,

TOGETHER with all the tenements, hereditaments and appurtenances, and every privilege, right, title, interest and estate, reversion, remainder and easement thereto belonging or in anywise appertaining (collectively, the "Property").

SUBJECT TO the encumbrances and exceptions described on Exhibit B attached hereto and incorporated herein by reference thereto (collectively, "Permitted Exceptions"); provided, however, that neither Grantor nor Grantee intend to reimpose any Permitted Exceptions nor shall this conveyance operate to reimpose or extend any Permitted Exceptions.

THIS PROPERTY IS NOT THE HOMESTEAD OF GRANTOR.

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

And Grantor does hereby warrant that, subject to and except for the Permitted Exceptions, the title to the Property is free from all encumbrances made by Grantor, and that subject to and except for the Permitted Exceptions, Grantor will defend the same against the lawful claims and demands of all persons and entities claiming by, through, or under Grantor, but against none other.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE TO SPECIAL WARRANTY DEED

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

Signed, sealed and delivered
in the presence of:

FLAGLER AIRPORT INDUSTRIAL, LLC,
a Florida limited liability company

Lori Amanda Hawkins

Print Witness Name: Lori Amanda Hawkins

James E. Gardner, Jr.

By: _____
Print Name: James E. Gardner, Jr.
Its: Manager

James E. Gardner, Jr.

Print-Witness Name: JAMES E. GARDNER, JR.

STATE OF FLORIDA
COUNTY OF Flagler

The foregoing instrument was acknowledged before me by means of physical appearance or online notarization, this 6th day of March, 2023, by James E. Gardner, Jr., as Manager of **FLAGLER AIRPORT INDUSTRIAL, LLC**, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced _____ as identification.

Lori Amanda Hawkins

Notary Public (Signature)

Print Name:

My Commission Expires: _____

(Notary Seal)

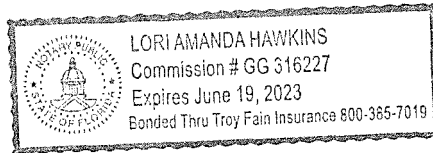


EXHIBIT A
Legal Description of Property

A PARCEL OF LAND LOCATED IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1109, PAGE 662 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY) AND BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 02°21'21" EAST A DISTANCE OF 311.05 FEET; THENCE SOUTH 89°12'02" WEST A DISTANCE OF 215.65 FEET; THENCE NORTH 35°18'25" WEST A DISTANCE OF 49.38 FEET; THENCE SOUTH 89°09'20" WEST A DISTANCE OF 219.04 FEET; THENCE NORTH 02°23'12" WEST A DISTANCE OF 270.13 FEET A POINT ON THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 89°09'05" EAST A DISTANCE OF 461.70 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

EXHIBIT B
Permitted Exceptions

Taxes and assessments for the year 2023 and subsequent years, which are not yet due and payable.

MOODY
S11°57'40"W 0.46'

FND 5/8" IR
NO IDENTITY
S60°12'29"E 0.36'

FND 5/8" IRC
"LB 7808"
N70°49'04"W 0.41'

FND 1/2" IPC

ADJUSTED LOT LINE

OUTPARCEL E
1.612 AC

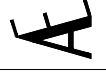


SCALE: 1"=20'

NOTE: IMPERVIOUS AREA PER LOT
NOT TO EXCEED 80%.

LOT 1

ALANN ENGINEERING
GROUP, INC.
1800 W. UNIVERSITY BLVD., SUITE 113
BOCA RATON, FL 33433
TEL: (305) 773-7640
FAX: (305) 673-9327



CORNERSTONE AT SEMINOLE WOODS
FLAGLER COUNTY
OUTPARCEL E - VARIANCE SITE PLAN

NO.	DATE	BY

DESIGNER	DATE	SCALE
KCB	6/21/22	1" = 20'
DRAWN BY	PROJECT	
JAM/KMB	2111-1	

NOT TO SCALE - DIMENSIONS SHOWN ARE FOR INFORMATION ONLY

SHEET
C001

S89°09'26"W 281.72' TOTAL

D 55°32'31"
R 16.00'

15.50'

CB S63°04'46"

CL 14.91'

105.70

N35°18'25"W

6.06'

44.02'

FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 6 / 21 / 2023

VARIANCE TO MAXIMUM IMPERVIOUS AREA AT 80% IN THE C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT

APPLICANT: Alann Engineering Group, Inc. / OWNER: Seminole Woods Investments, LLC

Distribution date: June 16, 2023

Project #: 2023050065

Application #: 3374

Attached are departmental comments regarding your submittal to Flagler County for the above referenced project. **Any questions regarding any of the comments should be addressed to the department providing the comment.**

Flagler County Building Department	386-313-4002
Flagler County Planning Department	386-313-4009
Flagler County Development Engineering	386-313-4082
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 at this time.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time.

REVIEWING DEPARTMENT: COUNTY ENGINEERING

No comments at this time.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. General Comment:

This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Commercial Subdivision meets the zoning requirements.

REVIEWING DEPARTMENT: E-911 STAFF

No comments at this time.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No comments at this time.

REVIEWING DEPARTMENT: FIRE INSPECTOR

1. Fire has no issues with this.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.
2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 District requirements.



June 23, 2023

Gina Lemon
Flagler County Planning Services
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110

RE: App # 3374 – Cornerstone at Seminole Woods: Lot E Variance
Project # 2023050065 / AR # 4115

Dear Gina,

We are in receipt of comments for the referenced project. These comments were generated during the TRC review of the project and delivered to us on June 16th, 2023. We have revised our plans and submitted the material below for your review and approval:

1. Responses to Staff Comments (this letter)
2. Revised Variance Application

We offer the following responses to staff comments:

DEVELOPMENT ENGINEERING

1. This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Commercial Subdivision meets the zoning requirements.

RESPONSE: Noted. The project as a whole has slightly less than 50% impervious area.

FIRE INSPECTOR

1. Fire has no issues with this.

RESPONSE: Noted.

PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.

RESPONSE: The impervious area shown is the maximum allowable since some of the out-parcel users are unknown.

2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 District requirements.

RESPONSE: Please see revised page 2 attached to the application.

Should you have any questions or require additional information, please advise.

Sincerely,
The Alann Engineering Group, Inc.



Kimberly A. Buck, P.E.
President

cc: File

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considering in whole or part, creates an unnecessary hardship; and

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17.A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, a basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

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

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

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

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

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

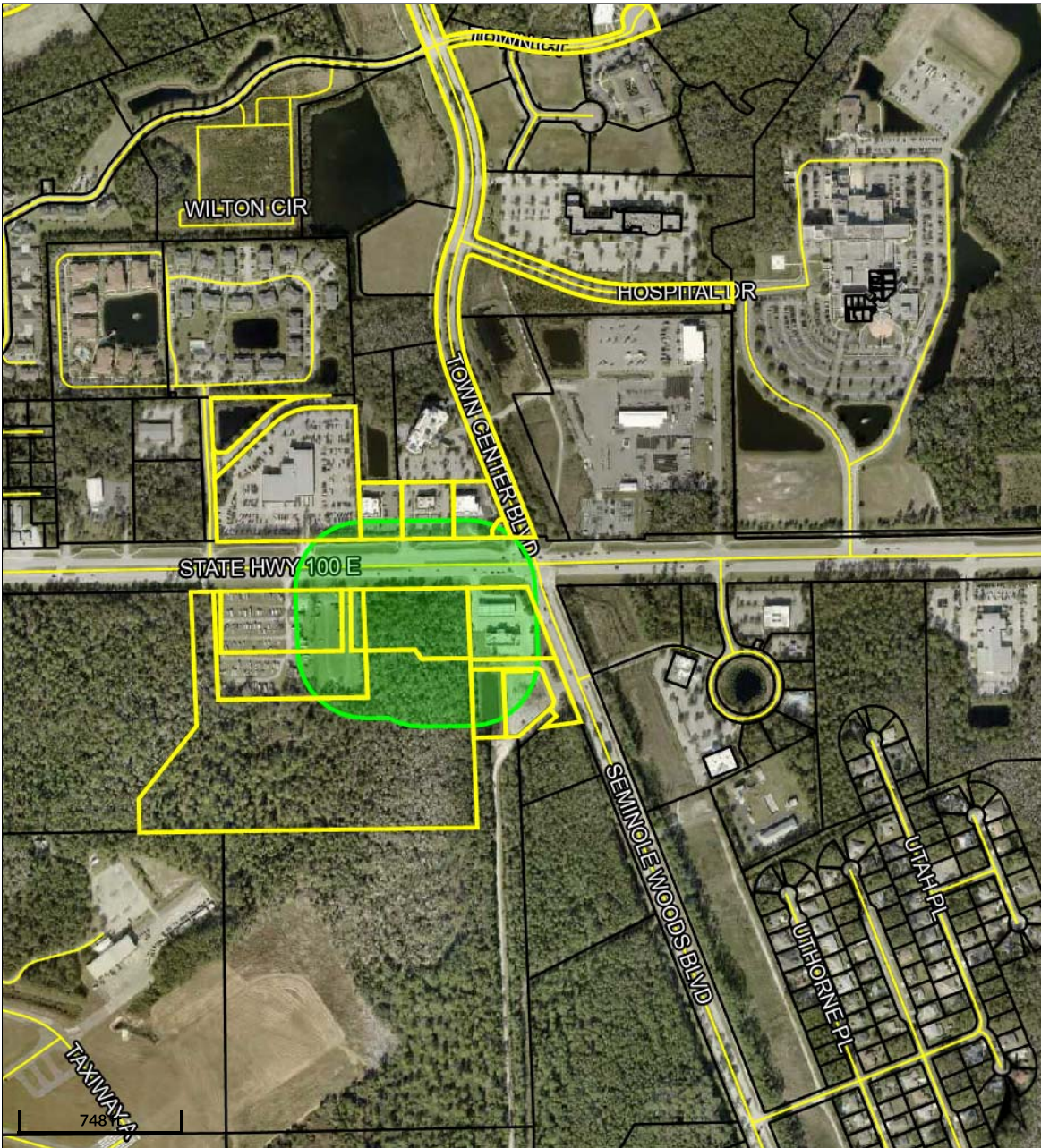
The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County,

Florida (“Annexation Agreement”). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City’s LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County’s LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant’s reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully requests that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

App #3374 - Variance



Overview



Legend

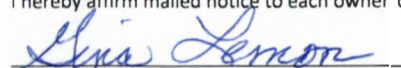
- Parcels
- Roads
- Streams and Rivers

Date created: 6/22/2023
Last Data Uploaded: 6/22/2023 8:10:35 AM

App #3374
Variance

ParcelId	OwnerName	OwnerAddress1	OwnerAddress2	OwnerCityStZip
06-12-31-5815-00000-00J0	TOWN CENTER AT PALM COAST CDD		210 N UNIVERSITY DR SUITE 702	CORAL SPRINGS, FL 33071
08-12-31-5816-00000-0010	PAUL DUGGAL FLORIDA LLC		1212 WICKHAM AVE FL ST	MIDDLETOWN, NY 10940
08-12-31-5816-00000-0030	PALM COAST STATION LLC	ATTN: TARAZ DARABI	4140 NW 37TH PLACE STE A	GAINESVILLE, FL 32606
06-12-31-5815-00000-00A1	CITY OF PALM COAST		160 LAKE AVENUE	PALM COAST, FL 32164
08-12-31-5816-00000-0020	MDC COAST 17 LLC		11995 EL CAMINO REAL	SAN DIEGO, CA 92130
08-12-31-0176-00000-0010	RACETRAC PETROLEUM INC	C/O SILVER OAK ADVISORS LLC	200 GALLERIA PARKWAY	ATLANTA, GA 30339
08-12-31-0176-00000-00B0	SEMINOLE/SR 100 PROPERTY OWNERS ASSOC, INC		577 BARNES BLVD SUITE 650	ROCKLEDGE, FL 32955
08-12-31-0176-00000-0020	MI VENTURES GROUP LLC		577 BARNES BLVD 650	ROCKLEDGE, FL 32955
08-12-31-0176-00000-00A0	SEMINOLE/SR 100 PROPERTY OWNERS ASSOC, INC		577 BARNES BLVD SUITE 650	ROCKLEDGE, FL 32955
08-12-31-0650-000A0-0090	TLG LLC		5850 E HWY 100	PALM COAST, FL 32164
08-12-31-0650-000D0-0051	SEMINOLE WOODS INVESTMENTS, LLC		7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940
08-12-31-0650-000D0-0050	BJ'S WHOLESALE CLUB, INC		350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0071	BJ'S WHOLESALE CLUB INC		350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0074	SEMINOLE WOODS INVESTMENTS, LLC		7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940

I hereby affirm mailed notice to each owner on 7/24/2023 for the Planning and Development Board meeting on 8/8/2023 at 6:00 pm.


Gina Lemon, Development Review Planner III

Growth Management Department
Planning & Development
1769 E. Moody Blvd, Bldg. 2
Bunnell, FL 32110



www.flaglercounty.org
Phone: (386)313-4009
Fax: (386)313-4109

July 24, 2023

SEMINOLE WOODS INVESTMENTS, LLC
7331 OFFICE PARK PLACE SUITE 200
MELBOURNE, FL 32940

RE: Application #3374 – Variance to Exceed Maximum Impervious Area in the C-2 (General Commercial and Shopping Center) District

Dear Property Owner:

As owner of property within 300' of the property referenced herein, the Flagler County Planning Department, in accordance with Section 2.07.00 of the Flagler County Land Development Code, advises you that:

A request has been made by applicant Alann Engineering Group, Inc. on behalf of owner Seminole Woods Investment, LLC for a Variance to allow the maximum impervious area up to 80%, the minimum pervious area required in the C-2 District is a minimum of 30% on the subject property as identified proposed Parcel E, in the Preliminary Plat known as Cornerstone at Seminole Woods and known as Parcel Number: 08-12-31-0650-000B0-0074.

You are hereby notified that a public hearing before the **Flagler County Planning and Development Board**, required by law, will be held in the Flagler County Government Services Building, Board Chambers, at 1769 East Moody Boulevard, Building 2, Bunnell, Florida, on **August 8, 2023**, beginning at **6:00 p.m.** or as soon thereafter as possible.

You are welcome to attend and express your opinion.

Sincerely,

A handwritten signature in purple ink that reads "Gina Lemon".

Gina Lemon
Development Review Planner III

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDED TO APPEAL ANY DECISION BY THE BOARD, AGENCY OR COMMISSION WITHRESPECT 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 VERBATUM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTAMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

Andy Dance
District 1

Greg Hansen
District 2

David Sullivan
District 3

Leann Pennington
District 4

Donald O'Brien, Jr.
District 5

APPLICATION # 3370
NOTICE OF PUBLIC HEARING
THE FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD WILL HOLD A PUBLIC HEARING AT:
FLAGLER COUNTY GOVERNMENT SERVICES BUILDING BOARD CHAMBERS
1769 E. MOODY BOULEVARD, BLDG 2; BUNNELL, FL 32110
August 8, 2023 @ 6:00 PM
REQUEST: **80% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**
Parcel Number: 08-12-31-0650-00000-0051
Zoning District: C-2 DISTRICT
THE PUBLIC HEARING IS BEING HELD FOR THE PURPOSE OF HEARING ANY AND ALL INTERESTED PARTIES AND PERSONS WHO MAY BE FOR OR AGAINST THE APPLICATION, RELATIVE TO THE PROPERTY WHEREON THIS NOTICE IS POSTED.
For additional information visit web page at: www.flaglercounty.gov or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE

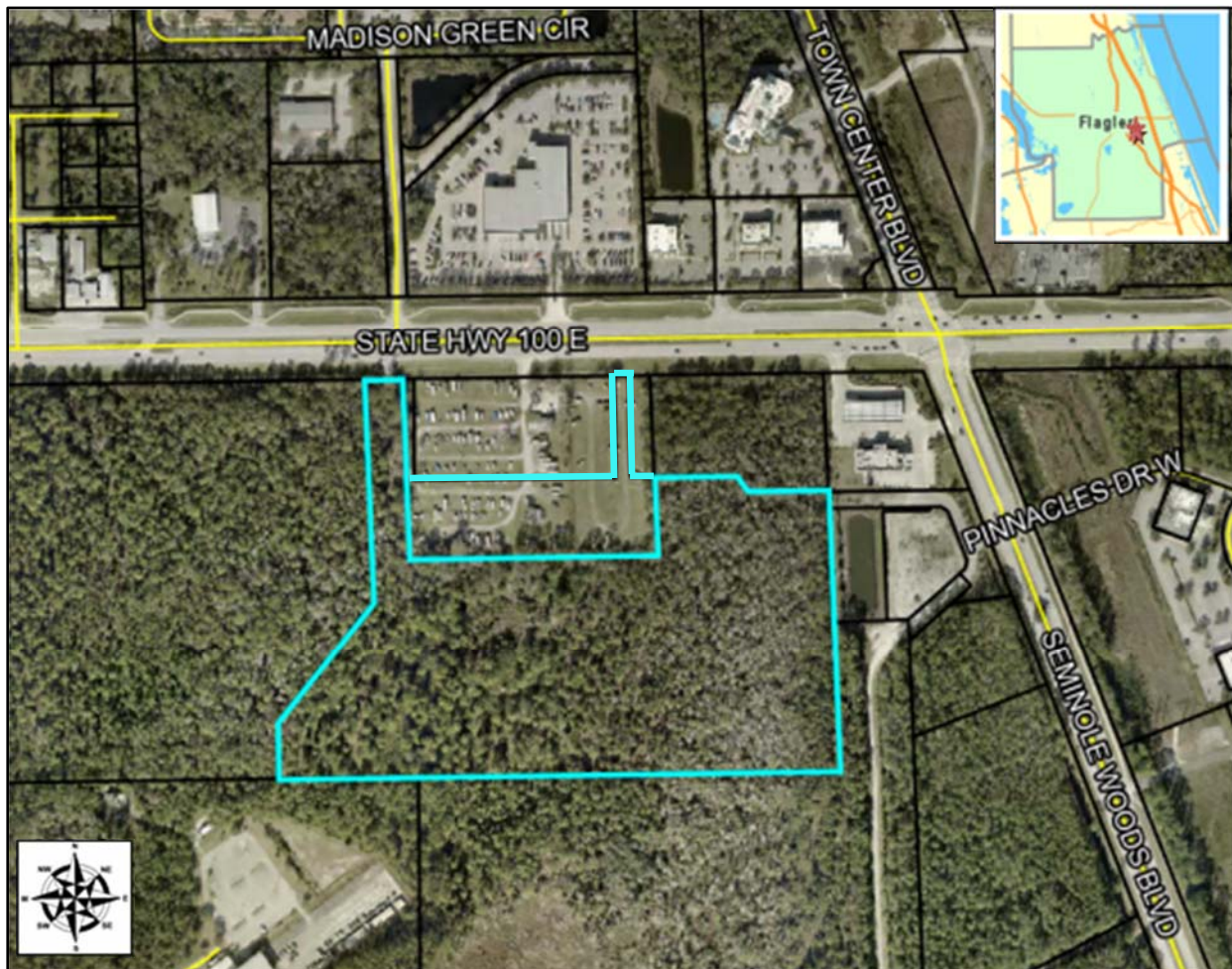
APPLICATION # 3374
NOTICE OF PUBLIC HEARING
THE FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD WILL HOLD A PUBLIC HEARING AT:
FLAGLER COUNTY GOVERNMENT SERVICES BUILDING BOARD CHAMBERS
1769 E. MOODY BOULEVARD, BLDG 2; BUNNELL, FL 32110
August 8, 2023 @ 6:00 PM
REQUEST: **80% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**
Parcel Number: 08-12-31-0650-00000-0074
Zoning District: C-2 DISTRICT
THE PUBLIC HEARING IS BEING HELD FOR THE PURPOSE OF HEARING ANY AND ALL INTERESTED PARTIES AND PERSONS WHO MAY BE FOR OR AGAINST THE APPLICATION, RELATIVE TO THE PROPERTY WHEREON THIS NOTICE IS POSTED.
For additional information visit web page at: www.flaglercounty.gov or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING/AGENDA ITEM #9**

SUBJECT: QUASI-JUDICIAL – Application #3375 – Request for a variance to exceed the maximum impervious area from 70% to 90% in the C-2 (General Commercial and Shopping Center) District at proposed Lot F, Cornerstone at Seminole Woods. Parcel # 08-12-31-0650-000B0-0071 and 08-12-31-0650-000D0-0050; 10.18 +/- acres. Owner: BJ's Wholesale Club, Inc./Applicant: Alann Engineering Group, Inc. (Project #2023050066).

DATE OF MEETING: ~~July 11, 2023~~ August 8, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is to exceed the impervious area from 70% to 90% in the C-2 (General Commercial and Shopping Center) District at proposed Lot F, Cornerstone at Seminole Woods. This proposed parcel is 10.18 +/- acres in size, identified as Parcel No. 08-12-31-0650-000B0-0071 and 08-12-31-0650-000D0-0050:



On May 23, 2023, Alann Engineering Group, Inc. submitted an application for a variance to exceed the maximum allowable impervious area. This request is prior to commencement of construction.

The subject property is described as proposed Lot F of the Cornerstone at Seminole Woods subdivision, the plat is at preliminary approval and not yet recorded in the Public Records of Flagler County, Florida.

This application was reviewed by the Technical Review Committee (TRC) at its June 21, 2023 meeting. The Technical Review Committee provided comments to be addressed by the applicant, and the applicant provided their response.

Public notice has been provided for this application according to Flagler County Land Development Code Section 2.07.00.

This agenda item is:

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

OPTIONS FOR THE BOARD:

APPROVAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3375 to exceed the impervious area up to a maximum of 90 percent on proposed Lot F, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000B0-0071 and 08-12-31-0650-000D0-0050).

DENIAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have not been met and therefore denies Application #3375 to exceed the impervious area up to a maximum of 90 percent on proposed Lot F, Cornerstone at Seminole Woods preliminary plat (Parcel No. 08-12-31-0650-000B0-0071 and 08-12-31-0650-000D0-0050).

CONTINUANCE: The Planning and Development Board continues the variance request on the basis that additional information is needed from staff or the applicant. Based on the presentation and the public hearing, the Board does not have sufficient information to be able to render a decision on the variance request. Continuing the variance request to a time and date certain will preserve public notice and provide an opportunity for staff or the applicant to provide additional information.

ATTACHMENTS:

1. Technical Staff Report
2. Application and supporting documents
3. TRC comments
4. Applicant's response to TRC comments
5. City of Palm Coast email – calculation of credit
6. Public notice

**APPLICATION #3375
VARIANCE IMPERVIOUS AREA UP TO MAXIMUM OF 90%
IN THE C-2 DISTRICT
PROPOSED LOT F, CORNERSTONE AT SEMINOLE WOODS
TECHNICAL STAFF REPORT**

Application/Project #: 3375/2023050066

Address: Not assigned (Proposed Lot F, Cornerstone at Seminole Woods)

Owner: BJ's Wholesale Club, Inc.

Applicant: Alann Engineering Group, Inc.

Parcel #: 08-12-31-0650-000B0-0071 and 08-12-31-0650-000D0-0050

Parcel Size: 10.18+/- acres

Legal Description: Proposed Lot F, Cornerstone at Seminole Woods

Existing Zoning and Land Use Classification:

Zoning: C-2 (General Commercial and Shopping Center) District

Land Use: Commercial High Intensity

Future Land Use Map Classification/Zoning of Surrounding Land:

North: State Road 100

East: City of Palm Coast commercial

South: Industrial/I (Industrial) zoning district

West: Commercial: High Intensity and Industrial/ C-2 (General Commercial and Shopping Center) and I (Industrial) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.17, C-2 – *General commercial and shopping center district*; Section 3.07.03, *Procedure for variances and special exceptions*; Section 3.07.03.E, *Variance guidelines*.

General description of request

Variance Guideline Analysis

LDC Section 3.07.03.E, *Variance guidelines*, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant's statements (included below and attached in their entirety) and staff's analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and*

The development as a whole (which is now it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for – such is the hardship in this case.

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC, Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than the 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

Staff analysis: The County's C-2 (General commercial and shopping center) zoning district provides dimensional requirements for shopping centers (where tenants lease

space held under common ownership) based on project size, while general commercial development (where parcels are individually described and separately owned) is based on lot size. Regardless of the shopping center or general commercial approach within the C-2 zoning district, the minimum pervious area is set as thirty (30) percent. Using the inverse of the minimum pervious area, the maximum impervious area would be set at 70% of the parcel area.

The County's Land Development Code does not provide for a master planned development – inclusive of common elements – outside of a Planned Unit Development (PUD). It was originally anticipated that the BJ's Wholesale Club parcel (Proposed Lot F) would begin its vertical development through a County-issued building permit, with the Cornerstone at Seminole Woods plat to be completed prior to annexation into the City of Palm Coast. Individual building permits for the outparcels were to follow final plat approval, and the BJ's permit would be completed by the County following annexation. Aside from discussions with the developer, the County has no formal agreement with the developer as to process. The timing of the development of the Cornerstone project is (for the most part) to be guided by the Pre-Annexation Agreement between the developer and the City. The County is not a party to the Pre-Annexation Agreement, and would not enforce any of its provisions inclusive of the timing of development.

However, the developer has opted instead to pursue development of individual lots now prior to annexation. While the County is not opposed to this approach, it creates the current need for the variance for each of the proposed lots since stormwater is handled through a master stormwater system, enabling each lot to maximize its buildout as would be consistent with a master planned development (as opposed to a single commercial use as is anticipated by the C-2 zoning district).

Development of proposed Lot F is underway now as a BJ's Wholesale Club. While larger than the other proposed lots, Lot F would still require the variance due to the increased parking (and separate fueling station) that is sought by the owner. As for the timing of the final plat – which varies from the preliminary plat – the development of the subject parcel can occur without final plat approval since it predominantly conforms to the existing parcel boundaries. The County can permit single developments occurring on identified parcels, but multiple developments on a single parcel – without a plat – is not permitted by the County's Land Development Code.

City of Palm Coast staff have reviewed the submittal and determined that due to the set aside of wetlands the individual lots could be credited for their impervious area, allowing each to exceed the otherwise applicable limits on impervious area. Specific to Lot F, a greater than 80% impervious allowance is being requested through this variance because of the additional hardscape corresponding to the proposed use.

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

Applicant's response: The conditions were not created by the applicant – the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

Staff analysis: Had the project annexed into the City as originally discussed, the variance to exceed the impervious area would not have been necessary. The delay in annexation – and the permit submittal for the proposed outparcels – have made the variance necessary.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code.

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

Staff analysis: Hindsight as to the intended pace of development would have made the Planned Unit Development (PUD) and completion of the subdivision plat a more prudent decision instead of multiple variances. Even with the need for the mix of variances for this project, the approval does not cause substantial detriment to the public health, welfare, safety, and morals of the community.

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

Applicant's response: The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed – it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

Staff analysis: The proposed use is a permitted use in the C-2 zoning district. Granting the variance would not permit a use other than those listed within the C-2 zoning district.

County staff disagrees with the applicant's assertion that the County missed the impervious limit in its prior reviews. Impervious area – like other dimensional requirements – is determined at the site plan level for each parcel's development,

something that was not previously contemplated (or approved) through prior reviews by the County. For example, a proposed restaurant – and its layout – was not approved by the County through the preliminary plat. Specificity comes through successive submittals and review (and approval) steps. And as a final point, the development of individual lots and their conformity to the County’s requirements was viewed as moot by the County due to the pending annexation: the development of each of the lots were to satisfy City requirements, not County requirements. The delay in the annexation into the City has prompted the need for the variance.

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

Applicant’s response: The variance will be the minimum necessary to alleviate the hardship.

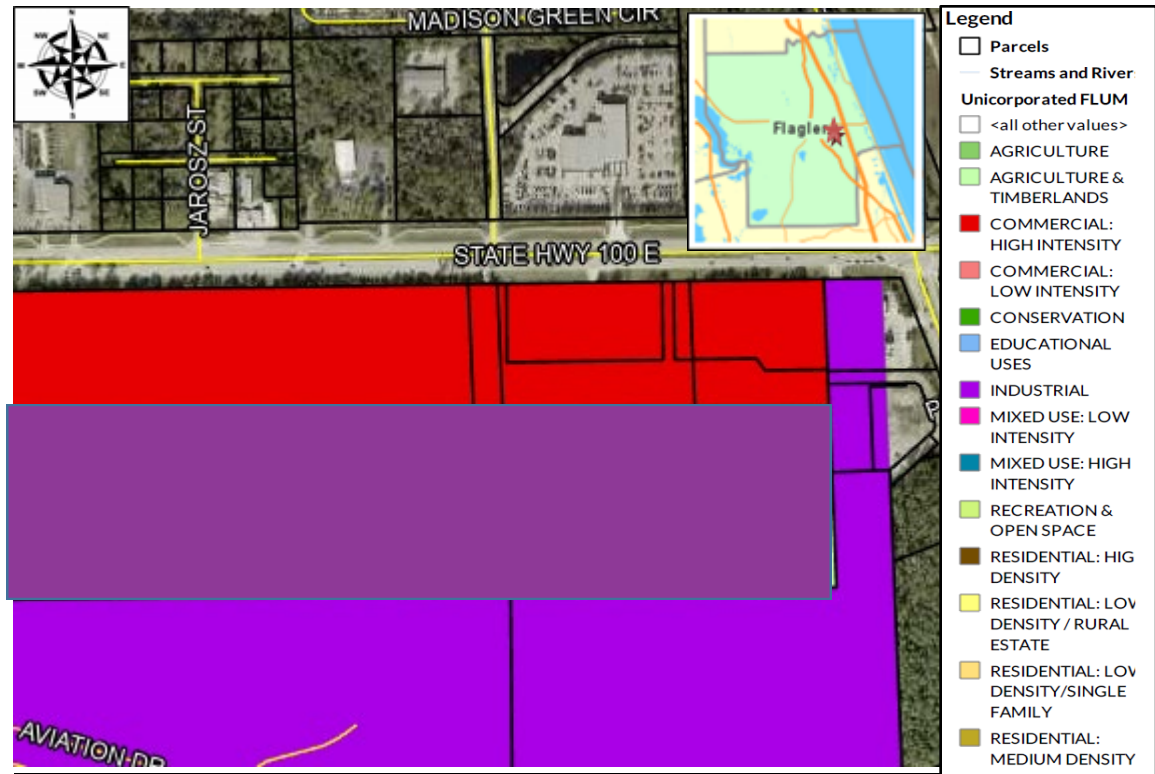
The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe that it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County, Florida (“Annexation Agreement”). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City’s LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County’s LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant’s reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

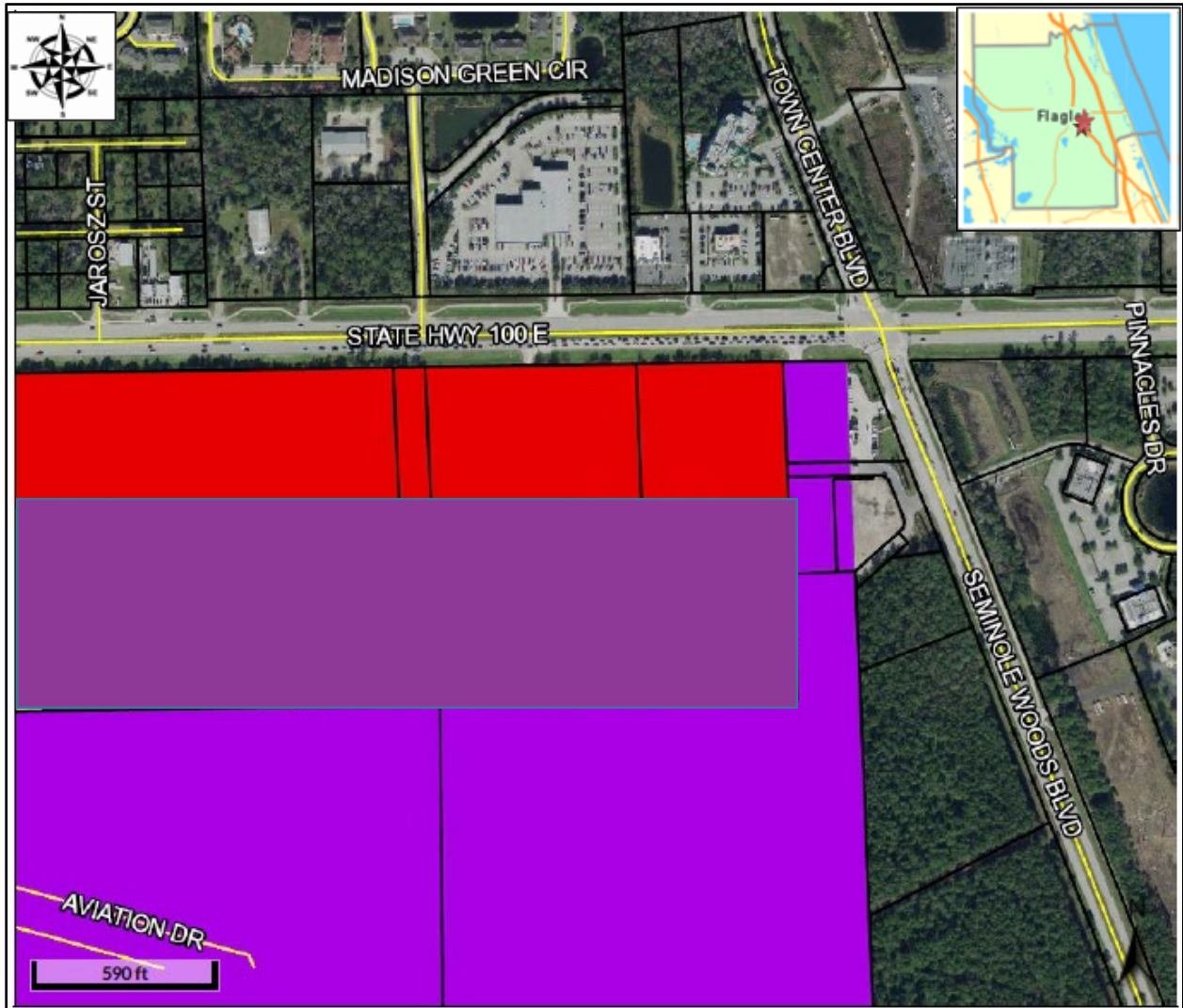
For all of the reasons stated above, the applicant respectfully request that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

Staff analysis: The requested variance is the minimum variance needed to alleviate the hardship. County staff does not agree with the applicant's interpretation of the applicability of the C-2 zoning's dimensional requirements. As for the Pre-Annexation Agreement, the developer is dependent on the City for its utilities regardless of whether or not the applicant was a party to the Settlement Agreement. The County does not separately have available utilities to serve the proposed project.

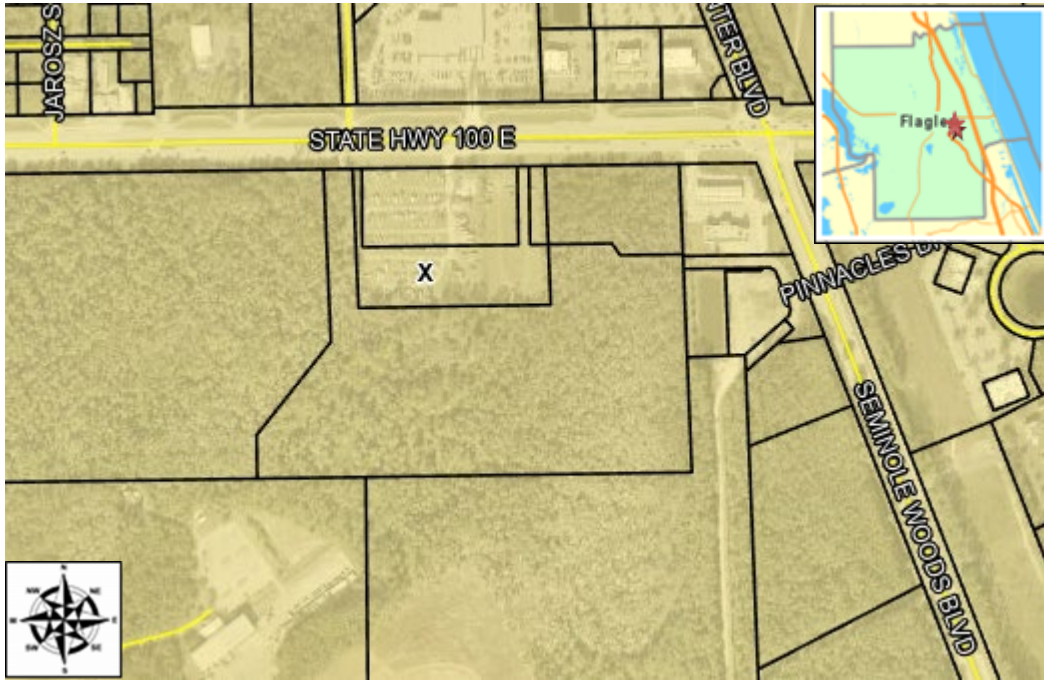
Future Land Use



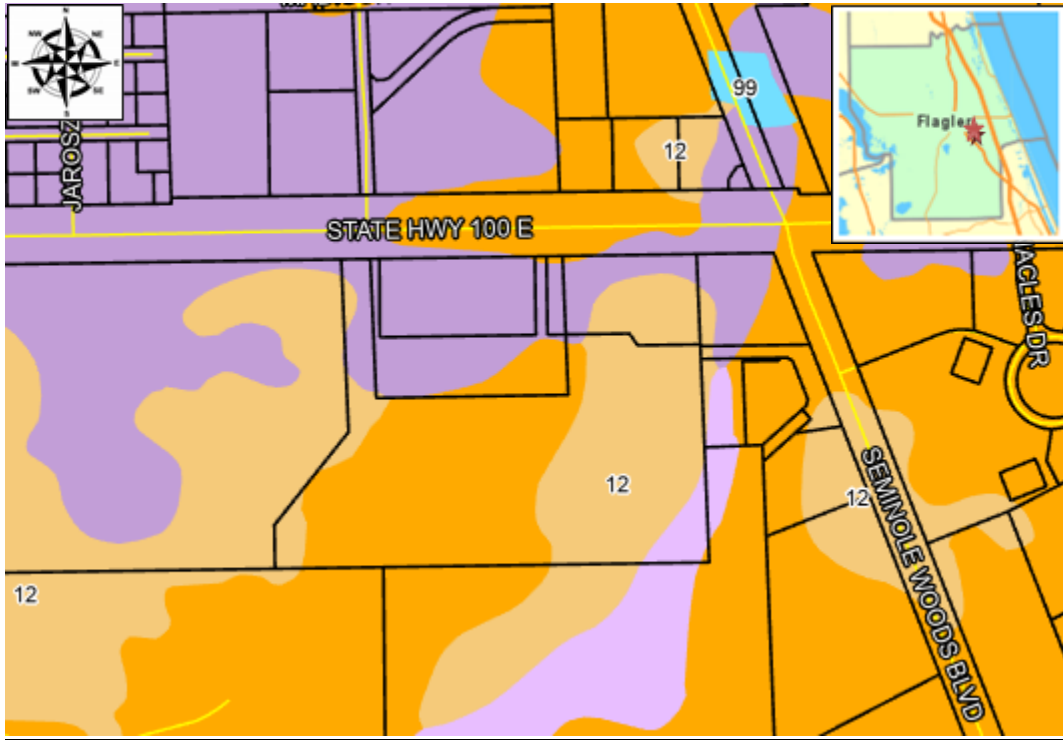
Zoning



Flood Zone

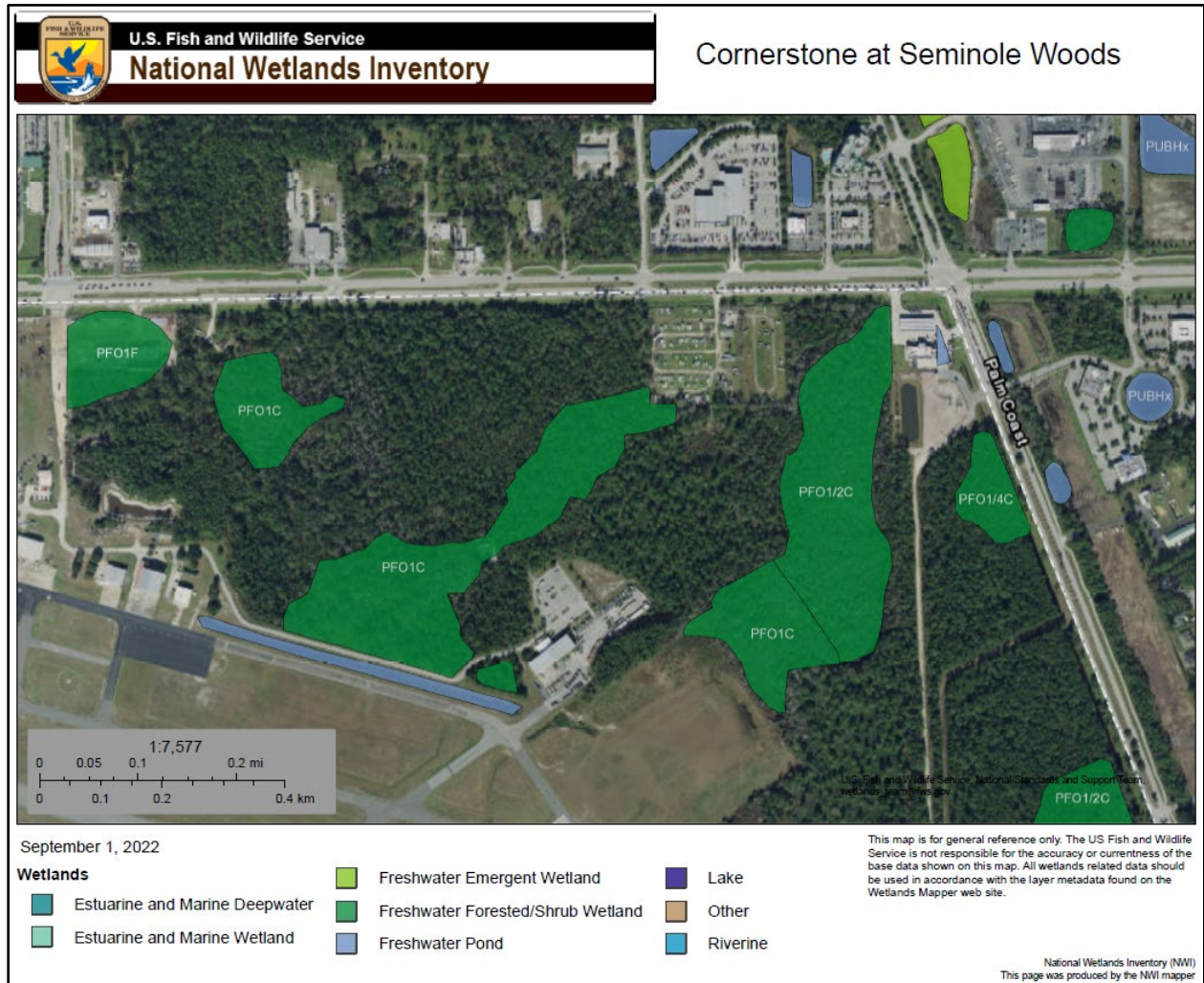


Soils



Soil Types
12 Placid, Basinger and St Johns soils, depressional
19 Valkaria fine sand
21 Smyrna fine sand

Wetlands



**APPLICATION #3375
VARIANCE IMPERVIOUS AREA UP TO MAXIMUM OF 90%
IN THE C-2 DISTRICT
PROPOSED LOT F, CORNERSTONE AT SEMINOLE WOODS
TECHNICAL STAFF REPORT**

Application/Project #: 3375/2023050066

Address: Not assigned (Proposed Lot F, Cornerstone at Seminole Woods)

Owner: BJ's Wholesale Club, Inc.

Applicant: Alann Engineering Group, Inc.

Parcel #: 08-12-31-0650-000B0-0071 and 08-12-31-0650-000D0-0050

Parcel Size: 10.18+/- acres

Legal Description: Proposed Lot F, Cornerstone at Seminole Woods

Existing Zoning and Land Use Classification:

Zoning: C-2 (General Commercial and Shopping Center) District

Land Use: Commercial High Intensity

Future Land Use Map Classification/Zoning of Surrounding Land:

North: State Road 100

East: City of Palm Coast commercial

South: Industrial/I (Industrial) zoning district

West: Commercial: High Intensity and Industrial/ C-2 (General Commercial and Shopping Center) and I (Industrial) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.17, C-2 – *General commercial and shopping center district*; Section 3.07.03, *Procedure for variances and special exceptions*; Section 3.07.03.E, *Variance guidelines*.

General description of request

Variance Guideline Analysis

LDC Section 3.07.03.E, *Variance guidelines*, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant's statements (included below and attached in their entirety) and staff's analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and*

The development as a whole (which is now it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site stormwater pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site stormwater pond, for which the County's code does not account for – such is the hardship in this case.

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC, Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than the 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

Staff analysis: The County's C-2 (General commercial and shopping center) zoning district provides dimensional requirements for shopping centers (where tenants lease

space held under common ownership) based on project size, while general commercial development (where parcels are individually described and separately owned) is based on lot size. Regardless of the shopping center or general commercial approach within the C-2 zoning district, the minimum pervious area is set as thirty (30) percent. Using the inverse of the minimum pervious area, the maximum impervious area would be set at 70% of the parcel area.

The County's Land Development Code does not provide for a master planned development – inclusive of common elements – outside of a Planned Unit Development (PUD). It was originally anticipated that the BJ's Wholesale Club parcel (Proposed Lot F) would begin its vertical development through a County-issued building permit, with the Cornerstone at Seminole Woods plat to be completed prior to annexation into the City of Palm Coast. Individual building permits for the outparcels were to follow final plat approval, and the BJ's permit would be completed by the County following annexation. Aside from discussions with the developer, the County has no formal agreement with the developer as to process. The timing of the development of the Cornerstone project is (for the most part) to be guided by the Pre-Annexation Agreement between the developer and the City. The County is not a party to the Pre-Annexation Agreement, and would not enforce any of its provisions inclusive of the timing of development.

However, the developer has opted instead to pursue development of individual lots now prior to annexation. While the County is not opposed to this approach, it creates the current need for the variance for each of the proposed lots since stormwater is handled through a master stormwater system, enabling each lot to maximize its buildout as would be consistent with a master planned development (as opposed to a single commercial use as is anticipated by the C-2 zoning district).

Development of proposed Lot F is underway now as a BJ's Wholesale Club. While larger than the other proposed lots, Lot F would still require the variance due to the increased parking (and separate fueling station) that is sought by the owner. As for the timing of the final plat – which varies from the preliminary plat – the development of the subject parcel can occur without final plat approval since it predominantly conforms to the existing parcel boundaries. The County can permit single developments occurring on identified parcels, but multiple developments on a single parcel – without a plat – is not permitted by the County's Land Development Code.

City of Palm Coast staff have reviewed the submittal and determined that due to the set aside of wetlands the individual lots could be credited for their impervious area, allowing each to exceed the otherwise applicable limits on impervious area. Specific to Lot F, a greater than 80% impervious allowance is being requested through this variance because of the additional hardscape corresponding to the proposed use.

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

Applicant's response: The conditions were not created by the applicant – the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria for this scenario, but Flagler County do not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

Staff analysis: Had the project annexed into the City as originally discussed, the variance to exceed the impervious area would not have been necessary. The delay in annexation – and the permit submittal for the proposed outparcels – have made the variance necessary.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code.

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

Staff analysis: Hindsight as to the intended pace of development would have made the Planned Unit Development (PUD) and completion of the subdivision plat a more prudent decision instead of multiple variances. Even with the need for the mix of variances for this project, the approval does not cause substantial detriment to the public health, welfare, safety, and morals of the community.

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

Applicant's response: The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed – it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

Staff analysis: The proposed use is a permitted use in the C-2 zoning district. Granting the variance would not permit a use other than those listed within the C-2 zoning district.

County staff disagrees with the applicant's assertion that the County missed the impervious limit in its prior reviews. Impervious area – like other dimensional requirements – is determined at the site plan level for each parcel's development,

something that was not previously contemplated (or approved) through prior reviews by the County. For example, a proposed restaurant – and its layout – was not approved by the County through the preliminary plat. Specificity comes through successive submittals and review (and approval) steps. And as a final point, the development of individual lots and their conformity to the County’s requirements was viewed as moot by the County due to the pending annexation: the development of each of the lots were to satisfy City requirements, not County requirements. The delay in the annexation into the City has prompted the need for the variance.

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

Applicant’s response: The variance will be the minimum necessary to alleviate the hardship.

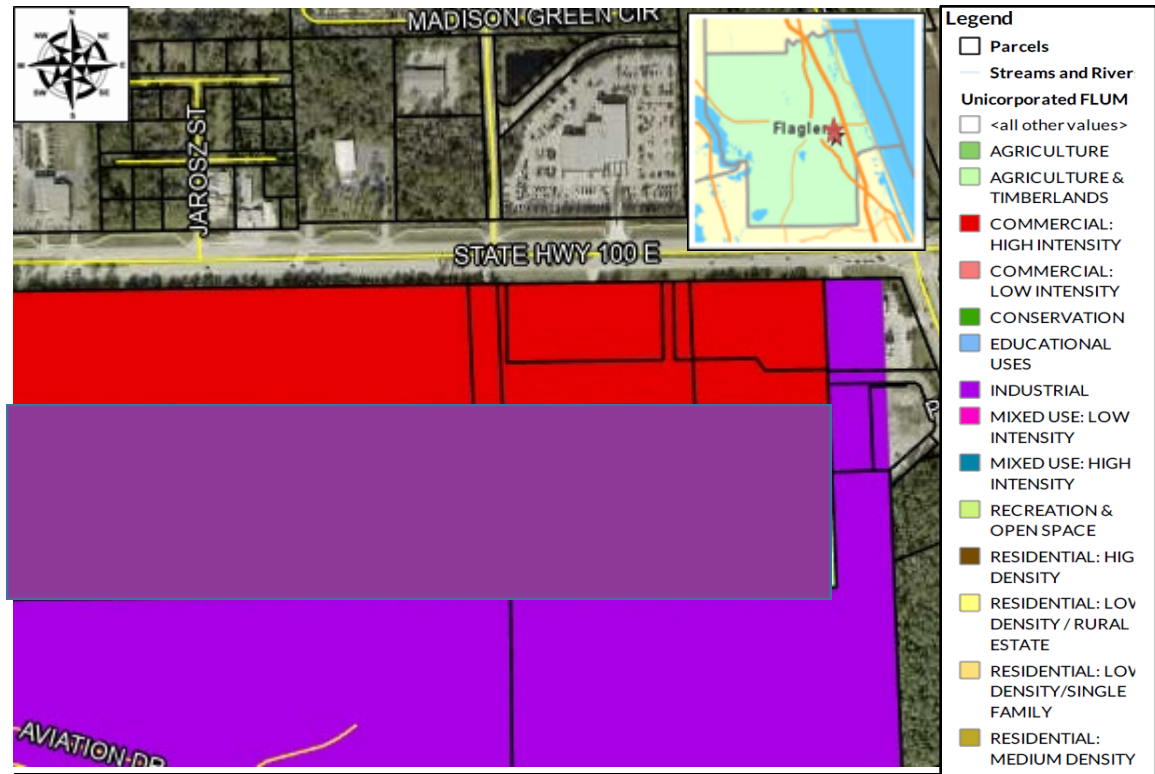
The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe that it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County, Florida (“Annexation Agreement”). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City’s LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County’s LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant’s reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

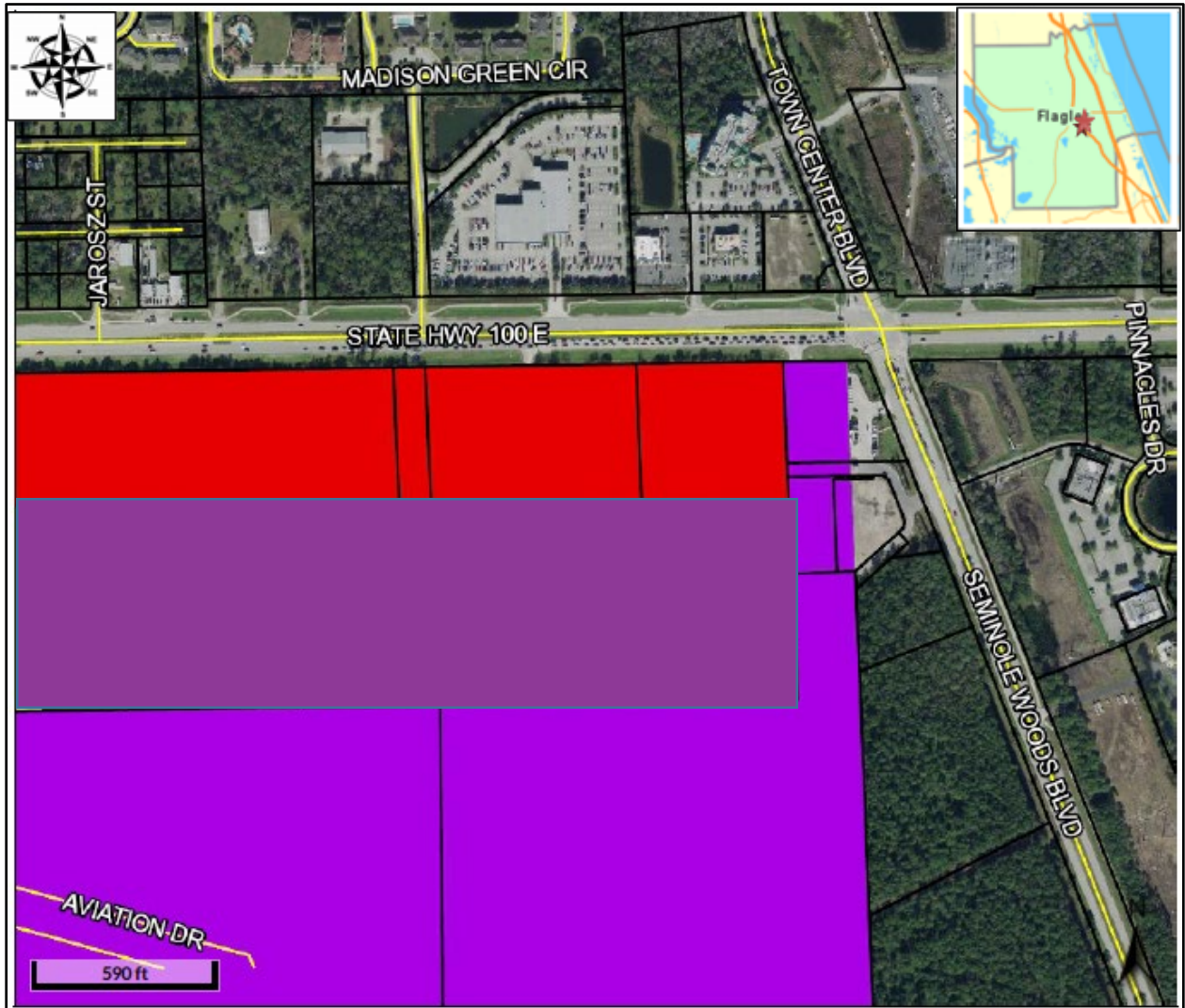
For all of the reasons stated above, the applicant respectfully request that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

Staff analysis: The requested variance is the minimum variance needed to alleviate the hardship. County staff does not agree with the applicant's interpretation of the applicability of the C-2 zoning's dimensional requirements. As for the Pre-Annexation Agreement, the developer is dependent on the City for its utilities regardless of whether or not the applicant was a party to the Settlement Agreement. The County does not separately have available utilities to serve the proposed project.

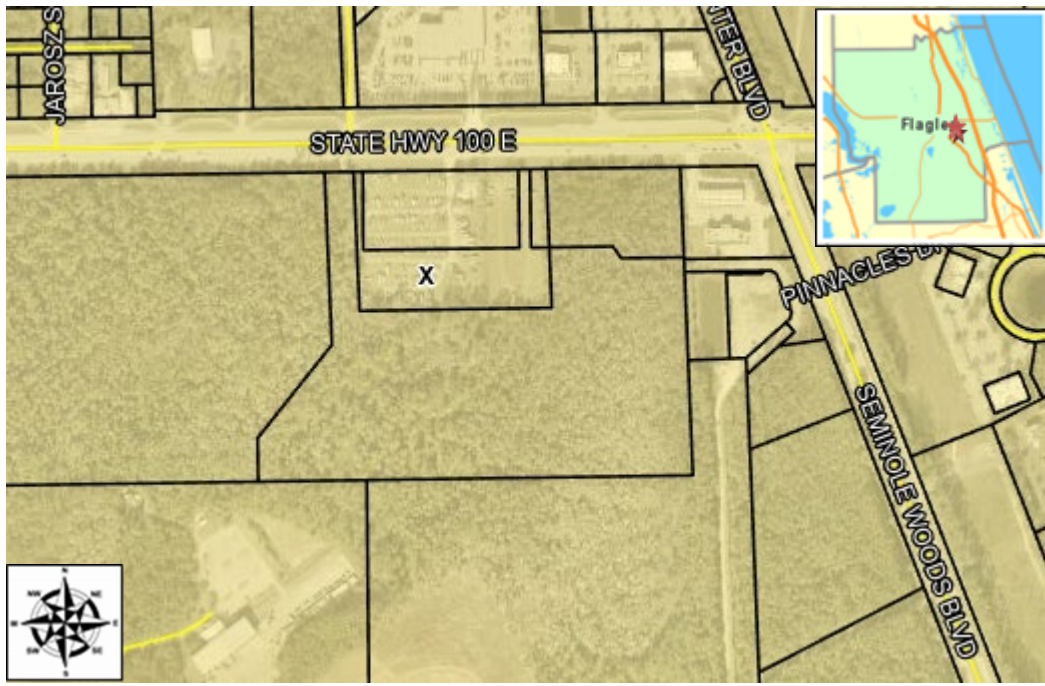
Future Land Use



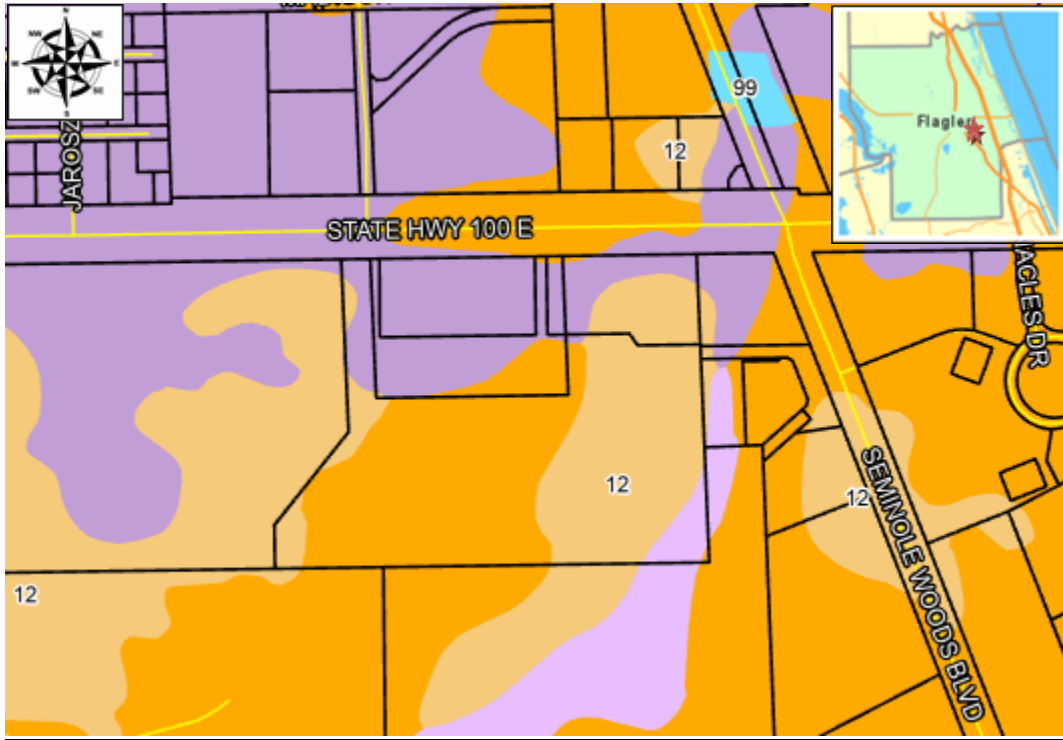
Zoning



Flood Zone

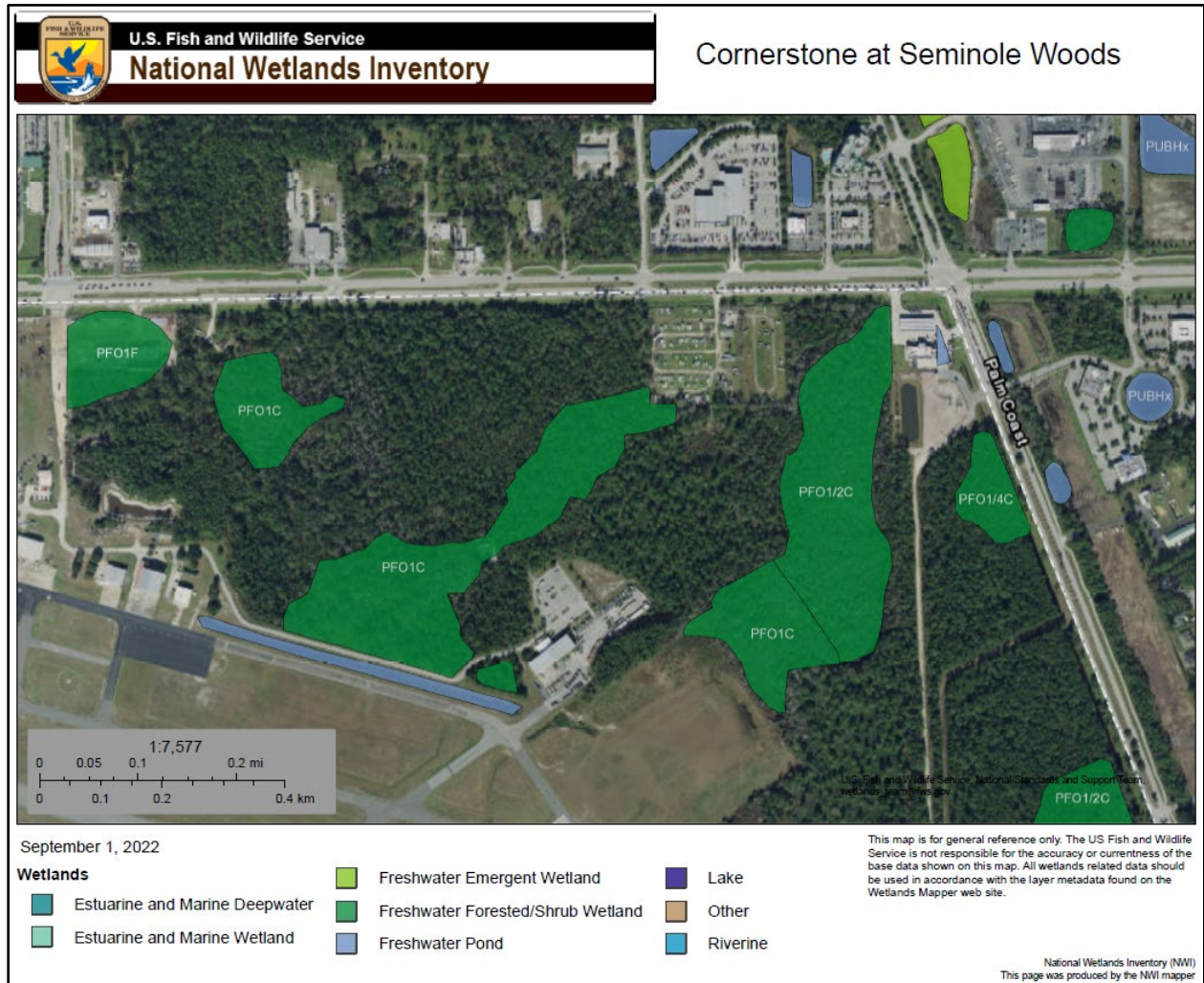


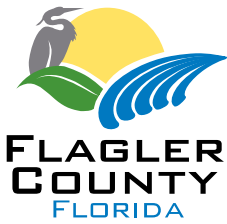
Soils



Soil Types
12 Placid, Basinger and St Johns soils, depressional
19 Valkaria fine sand
21 Smyrna fine sand

Wetlands





REVISED
APPLICATION FOR VARIANCE

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

Application/Project #: **3375 / 2023050066**

PROPERTY OWNER(S)	Name(s): Matthew Whelan, BJ's Wholesale Club, Inc.		
	Mailing Address: 350 Campus Drive		
	City: Marlborough	State: MA	Zip: 01752
	Telephone Number 772-512-7400	Fax Number n/a	

APPLICANT/AGENT	Name(s): Kimberly A Buck, Alann Engineering Group, Inc.		
	Mailing Address: 880 Airport Rd., Suite 113		
	City: Ormond Beach	State: FL	Zip: 32174
	Telephone Number 386-673-7640	Fax Number n/a	
	E-Mail Address: kim.buck@ae-group.com		

SUBJECT PROPERTY	SITE LOCATION (<i>street address</i>):	5857 State Hwy 100 E, Palm Coast, FL 32164 and 5869 State Hwy 100 E, Palm Coast, FL 32164	
	LEGAL DESCRIPTION: <i>(briefly describe, do not use "see attached")</i>	A parcel of land located in Sec 8, T 12 S, R 31 E, in Flagler County, FL.	
	Parcel # (<i>tax ID #</i>):	08-12-31-0650-00B0-0071 & a portion of 08-12-31-0650-000D0-0050	
	Parcel Size:	Lot F: 10.18 Acres	
	Current Zoning Classification:	Planned Unit Development	
	Current Future Land Use Designation	Commercial: High Intensity/Agriculture & Timberlands	
	Subject to A1A Scenic Corridor IDO?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO

Relief Requested: To allow for an increase of impervious area to 90%.

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

05/23/2023

 Date

****OFFICIAL USE ONLY****

PLANNING BOARD RECOMMENDATION/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. 09/16



APPLICATION FOR VARIANCE

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

Subject Property: 5857 State Hwy 100 E, Palm Coast, FL 32164 and 5869 State Hwy 100 E, Palm Coast, FL 32164

E. *Variance guidelines.* A variance may be granted, upon application, from the terms and provisions of this article as will not be contrary to the public health, safety, welfare and morals where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship. Such variances may be granted by the planning board in such individual case of unnecessary hardship upon a written finding that:

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or part, creates an unnecessary hardship; and

[Please see attached.](#)

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

[Please see attached.](#)

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

[Please see attached.](#)

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

[Please see attached.](#)

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

[Please see attached.](#)



APPLICATION FOR VARIANCE

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

Application/Project #: 3375 / 2023050066

PROPERTY OWNER(S)	Name(s): Matthew Whelan, BJ's Wholesale Club, Inc.		
	Mailing Address: 350 Campus Drive		
	City: Marlborough	State: MA	Zip: 01752
	Telephone Number 772-512-7400	Fax Number n/a	

APPLICANT/AGENT	Name(s): Kimberly A Buck, Alann Engineering Group, Inc.		
	Mailing Address: 880 Airport Rd., Suite 113		
	City: Ormond Beach	State: FL	Zip: 32174
	Telephone Number 386-673-7640	Fax Number n/a	
	E-Mail Address: kim.buck@ae-group.com		

SUBJECT PROPERTY	SITE LOCATION (<i>street address</i>):	5857 State Hwy 100 E, Palm Coast, FL 32164 and 5869 State Hwy 100 E, Palm Coast, FL 32164	
	LEGAL DESCRIPTION: <i>(briefly describe, do not use "see attached")</i>	A parcel of land located in Sec 8, T 12 S, R 31 E, in Flagler County, FL.	
	Parcel # (<i>tax ID #</i>):	08-12-31-0650-00B0-0071 & a portion of 08-12-31-0650-00D0-0050	
	Parcel Size:	10.18 Lot F: 24.60 Acres	
	Current Zoning Classification:	Planned Unit Development	
	Current Future Land Use Designation	Commercial: High Intensity/Agriculture & Timberlands	
	Subject to A1A Scenic Corridor IDO?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO

Relief Requested: To allow for an increase of impervious area to 80%.



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

05/23/2023

 Date

****OFFICIAL USE ONLY****

PLANNING BOARD RECOMMENDATION/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. 09/16



APPLICATION FOR VARIANCE

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

Subject Property: 5857 State Hwy 100 E, Palm Coast, FL 32164 and 5869 State Hwy 100 E, Palm Coast, FL 32164

E. *Variance guidelines.* A variance may be granted, upon application, from the terms and provisions of this article as will not be contrary to the public health, safety, welfare and morals where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship. Such variances may be granted by the planning board in such individual case of unnecessary hardship upon a written finding that:

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or part, creates an unnecessary hardship; and

The development as a whole (which is how it was designed and originally permitted in 2022) meets the code requirement of 30% pervious area. However, when the lots are platted (including an off-site storm water pond), the individual lots no longer meet the code. This is an exceptional condition applying to this project since it contains an off-site storm water pond, for which the County's code does not account for - such is the hardship in this case.

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

The conditions were not created by the applicant - the circumstances of shopping center development including off-site stormwater retention are extremely common in modern development. Most other jurisdictions have criteria for this scenario, but Flagler County does not. The code is simply not sophisticated enough to allow for off-site stormwater ponds, which are extremely common and most of the time necessary for modern development. The applicant has acted in good faith at all times.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

The variance will not cause detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of the County code

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

The use is permitted by right. Also, the preliminary plat and site plan was approved by Flagler County in 2022 with the same pervious percentage as currently proposed - it was previously missed by the County during review. This variance application is being submitted as a formality to avoid a non-conforming lot being created when the plat is recorded. The property was purchased and construction has commenced based on the 2022 County approval of the preliminary plat and site plan; denial of the final plat, this variance, or any outparcel site plan approval because of a code requirement that was missed by the County's previous review would be highly detrimental to the project and the associated investment being made in the County.

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

The variance will be the minimum necessary to alleviate the hardship.



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 # _____

Seminole Woods Investments, LLC & Alann Engineering Group, Inc., is hereby authorized TO ACT ON BEHALF OF BJ's Wholesale Club, 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 variance to impervious percentage requirement _____.

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

By: Whelan
Signature of Owner

LAWRENCE WHELAN Treasurer / Director
Printed Name of Owner / Title (if owner is corporation or partnership)

N/A
Signature of Owner

N/A
Printed Name of Owner

Address of Owner: Telephone Number (incl. area code)

350 Campus Drive 772-512-7400

Mailing Address

Marlborough MA 01752

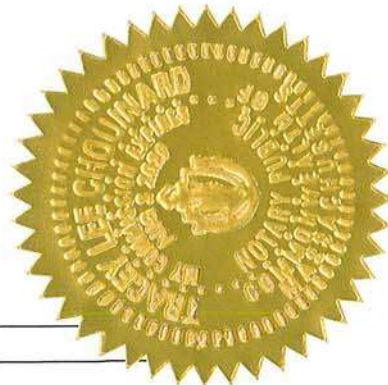
City State Zip

Commonwealth
~~STATE OF~~ Massachusetts

COUNTY OF Middlesex



TRACEY LEE CHOUINARD
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 3, 2029



The foregoing was acknowledged before me this 23 day of May 2023 by Lawrence Whelan and N/A who is/are personally known to me or who has produced _____ as identification, and who (did) / (did not) take an oath.

Tracey Lee Chouinard
Signature of Notary Public

(Notary Stamp)

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

Revised 5/08

Prepared by (and return to):

Michael P. Maguire, Esq.
Maguire Law Group
3300 Henderson Blvd., Suite 206A
Tampa, FL 33609

Parcel Identification Number(s): 08-12-31-0650-000D0-0050

SPECIAL WARRANTY DEED

THIS INDENTURE is made and entered into as of the 31st day of March, 2023, by and between **FLAGLER PINES PROPERTIES, LLC**, a Florida limited liability company ("Grantor"), whose mailing address is 4 Lambert Cove, Flagler Beach, Florida 32136, and **BJ'S WHOLESALE CLUB, INC.**, a Delaware corporation ("Grantee"), whose mailing address is 350 Campus Avenue, Marlborough, Massachusetts 01752.

WITNESSETH, that Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold, alienated, remised, released, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alienate, remise, release, convey and confirm unto Grantee, and Grantee's heirs, successors and assigns forever, the following described real property in the County of Flagler, State of Florida, to-wit:

SEE **EXHIBIT A** ATTACHED HERETO
AND INCORPORATED HEREIN BY REFERENCE THERETO,

TOGETHER with all the tenements, hereditaments and appurtenances, and every privilege, right, title, interest and estate, reversion, remainder and easement thereto belonging or in anywise appertaining (collectively, the "Property").

SUBJECT TO the encumbrances and exceptions described on **Exhibit B** attached hereto and incorporated herein by reference thereto (collectively, "Permitted Exceptions"); provided, however, that neither Grantor nor Grantee intend to reimpose any Permitted Exceptions nor shall this conveyance operate to reimpose or extend any Permitted Exceptions.

THIS PROPERTY IS NOT THE HOMESTEAD OF GRANTOR.

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

And Grantor does hereby warrant that, subject to and except for the Permitted Exceptions, the title to the Property is free from all encumbrances made by Grantor, and that subject to and except for the Permitted Exceptions, Grantor will defend the same against the lawful claims and demands of all persons and entities claiming by, through, or under Grantor, but against none other.

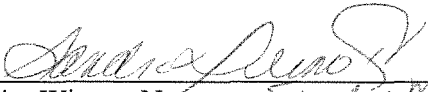
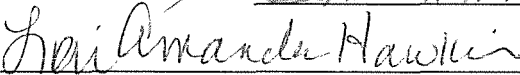
[SIGNATURES CONTAINED ON FOLLOWING PAGE]


SIGNATURE PAGE TO SPECIAL WARRANTY DEED

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

Signed, sealed and delivered
in the presence of:

FLAGLER PINES PROPERTIES, LLC,
a Florida limited liability company


Print Witness Name: Sandra M. McDermott

Print Witness Name: Lori Amanda Hawkins

By: 
Print Name: James E. Gardner, Jr.
Its: Manager

STATE OF FLORIDA
COUNTY OF Flagler

The foregoing instrument was acknowledged before me by means of physical appearance or online notarization, this 31ST day of March, 2023, by James E. Gardner, Jr., as Manager of **FLAGLER PINES PROPERTIES, LLC**, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced _____ as identification.

(Notary Seal)



Notary Public (Signature)
Print Name: Sandra M. McDermott
My Commission Expires: _____
Sandra M. McDermott
Notary Public State of Florida
My Comm. Exp. July 24, 2026
Comm. No. HH 291608

EXHIBIT A
Legal Description of Property

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 914, PAGE 84, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE SOUTH 89°09'05" WEST A DISTANCE OF 516.89 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 00°47'58" EAST A DISTANCE OF 270.03 FEET; THENCE NORTH 89°09'20" EAST A DISTANCE OF 62.68 FEET; THENCE SOUTH 02°23'12" EAST A DISTANCE OF 207.67 FEET; THENCE SOUTH 89°03'06" WEST A DISTANCE OF 661.20 FEET; THENCE NORTH 02°27'02" WEST A DISTANCE OF 478.96 FEET TO A POINT ON THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE DEPARTING SAID RIGHT-OF-WAY LINE NORTH 89°09'06" EAST A DISTANCE OF 31.73 FEET; THENCE SOUTH 00°13'49" EAST A DISTANCE OF 270.00 FEET; THENCE NORTH 89°09'20" EAST A DISTANCE OF 537.52 FEET; THENCE NORTH 00°47'58" WEST A DISTANCE OF 270.02 FEET TO A POINT ON THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 89°09'05" EAST A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

EXHIBIT B
Permitted Exceptions

Taxes and assessments for the year 2023 and subsequent years, which are not yet due and payable.

Prepared by (and return to):

Michael P. Maguire, Esq.
Maguire Law Group
3300 Henderson Blvd., Suite 206A
Tampa, FL 33609

Parcel Identification Number(s): 08-12-31-0650-000B0-0071

SPECIAL WARRANTY DEED

THIS INDENTURE is made and entered into as of the 31st day of March, 2023, by and between **FLAGLER AIRPORT INDUSTRIAL, LLC**, a Florida limited liability company (“Grantor”), whose mailing address is 4 Lambert Cove, Flagler Beach, Florida 32136, and **BJ’S WHOLESALE CLUB, INC.**, a Delaware corporation (“Grantee”), whose mailing address is 350 Campus Avenue, Marlborough, Massachusetts 01752.

WITNESSETH, that Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold, alienated, remised, released, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alienate, remise, release, convey and confirm unto Grantee, and Grantee’s heirs, successors and assigns forever, the following described real property in the County of Flagler, State of Florida, to-wit:

SEE **EXHIBIT A** ATTACHED HERETO
AND INCORPORATED HEREIN BY REFERENCE THERETO,

TOGETHER with all the tenements, hereditaments and appurtenances, and every privilege, right, title, interest and estate, reversion, remainder and easement thereto belonging or in anywise appertaining (collectively, the “Property”).

SUBJECT TO the encumbrances and exceptions described on **Exhibit B** attached hereto and incorporated herein by reference thereto (collectively, “Permitted Exceptions”); provided, however, that neither Grantor nor Grantee intend to reimpose any Permitted Exceptions nor shall this conveyance operate to reimpose or extend any Permitted Exceptions.

THIS PROPERTY IS NOT THE HOMESTEAD OF GRANTOR.

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

And Grantor does hereby warrant that, subject to and except for the Permitted Exceptions, the title to the Property is free from all encumbrances made by Grantor, and that subject to and except for the Permitted Exceptions, Grantor will defend the same against the lawful claims and demands of all persons and entities claiming by, through, or under Grantor, but against none other.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE TO SPECIAL WARRANTY DEED

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

Signed, sealed and delivered
in the presence of:

FLAGLER AIRPORT INDUSTRIAL, LLC,
a Florida limited liability company

Lori Amanda Hawkins
Print Witness Name: Lori Amanda Hawkins

By: [Signature]
Print Name: James E. Gardner, Jr.
Its: Manager

Sandra M. McDermott
Print Witness Name: Sandra M. McDermott

STATE OF FLORIDA
COUNTY OF Flagler

The foregoing instrument was acknowledged before me by means of physical appearance or online notarization, this 31st day of March, 2023, by James E. Gardner, Jr., as Manager of **FLAGLER AIRPORT INDUSTRIAL, LLC**, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced _____ as identification.

[Signature]
Notary Public (Signature)
Print Name: Sandra M. McDermott
My Commission Expires: _____

(Notary Seal)

Sandra M. McDermott
Notary Public State of Florida
My Comm. Exp. July 24, 2026
Comm. No. HH 291608

EXHIBIT A
Legal Description of Property

A PARCEL OF LAND LOCATED IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1109, PAGE 662 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 100 (A 200' RIGHT-OF-WAY); THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 02°21'21" EAST A DISTANCE OF 311.05 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 02°21'21" EAST A DISTANCE OF 750.00 FEET; THENCE SOUTH 89°09'52" WEST A DISTANCE OF 1,495.00 FEET; THENCE NORTH 00°50'03" WEST A DISTANCE OF 150.01 FEET; THENCE NORTH 38°32'07" EAST A DISTANCE OF 410.00 FEET; THENCE NORTH 02°27'01" WEST A DISTANCE OF 593.68 FEET TO A POINT IN THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 89°09'05" EAST A DISTANCE OF 100.04 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 02°27'02" EAST A DISTANCE OF 478.96 FEET; THENCE NORTH 89°03'06" EAST A DISTANCE OF 661.20 FEET; THENCE NORTH 02°23'12" WEST A DISTANCE OF 207.67 FEET; THENCE NORTH 89°09'20" EAST A DISTANCE OF 219.04 FEET; THENCE SOUTH 35°18'25" EAST A DISTANCE OF 49.38 FEET; THENCE NORTH 89°12'02" EAST A DISTANCE OF 215.65 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

EXHIBIT B
Permitted Exceptions

Taxes and assessments for the year 2023 and subsequent years, which are not yet due and payable.



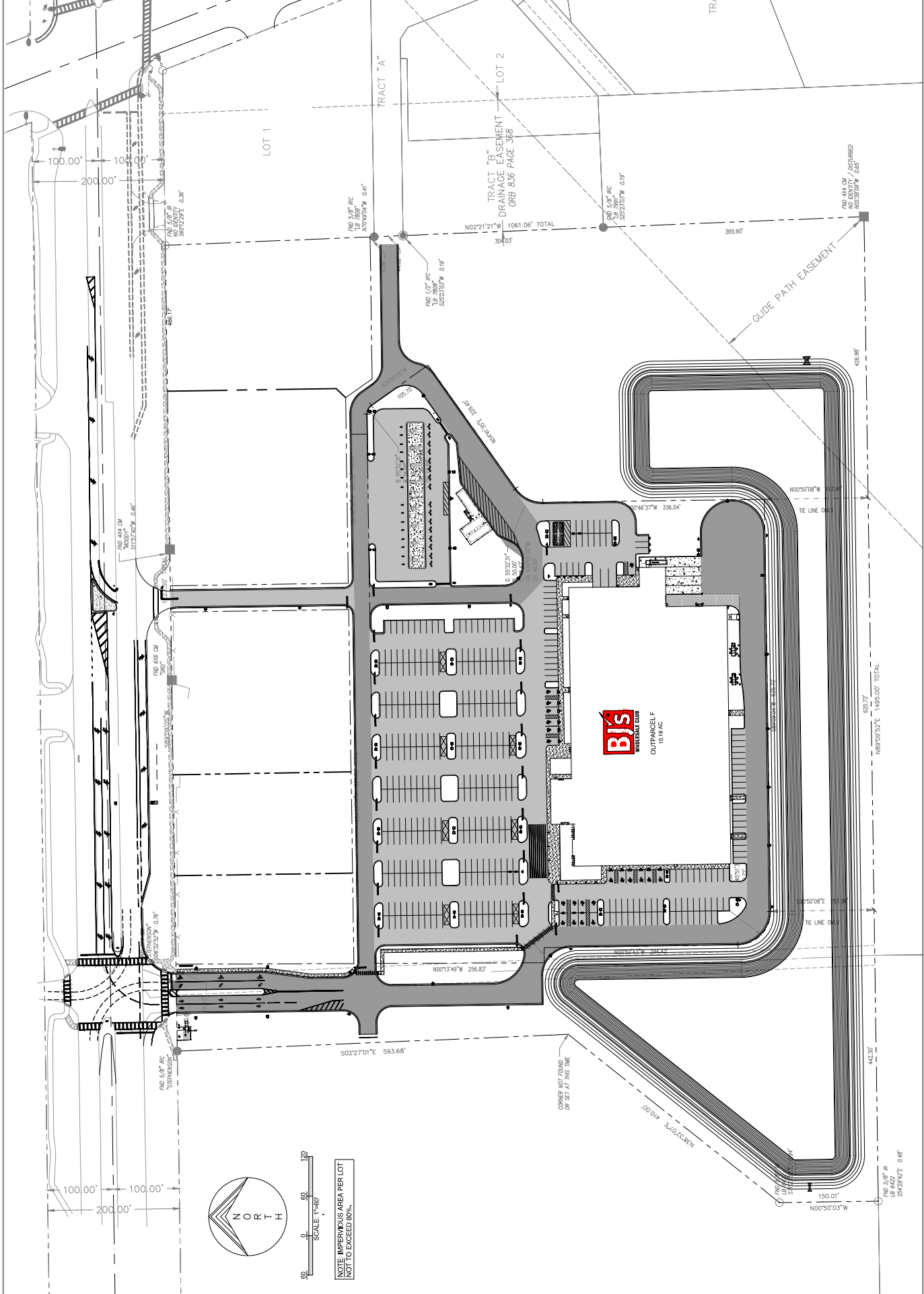
CORNERSTONE AT SEMINOLE WOODS
 FLAGLER COUNTY
 OUTPARCEL F - VARIANCE SITE PLAN

NO.	DATE	REVISION	BY

DESIGNER	FILE	DATE
KAB	2111.1	6/21/22
DRAWN BY	PROJECT	SCALE
JMB / KMB	2111.1	1" = 60'

DATE PLOTTED: 6/21/22 10:58 AM
 PLOTTER: HP DesignJet T1100e

SHEET
C001



NOTE: IMPERVIOUS AREA PER LOT
 NOT TO EXCEED 80%.



SCALE: 1" = 60'

FW: BJ's Pervious Area Ratio

1 message

Ray Tyner <RTyner@palmcoastgov.com>

Tue, Jun 27, 2023 at 2:41 PM

To: Kimberly Buck <kab@ae-group.com>, Mark Hudgins <mark.hudgins@matthewdev.com>, Matt Williams <matt.williams@matthewdev.com>

Cc: Jason DeLorenzo <JDeLorenzo@palmcoastgov.com>, Bill Hoover <BHoover@palmcoastgov.com>

All – See below from Bill Hoover. He also applied to our site. Bottom line, based on Mr. Hoovers quick analysis, if City Code applied the lot would meet the City's ratio requirements.

Hope this helps,

Ray

Ray Tyner

Deputy Chief
Development Officer

160 Lake Avenue
Palm Coast, FL
32164

Tel: 386-986-3745

www.palmcoast.gov



From: Bill Hoover <BHoover@palmcoastgov.com>
Sent: Tuesday, June 27, 2023 2:25 PM
To: Ray Tyner <RTyner@palmcoastgov.com>
Subject: RE: BJ's Pervious Area Ratio

Ray,

After researching this in the LDC, I did find what we use on giving credits for common stormwater systems. It is in LDC Section 3.05.03.B *Nonresidential intensities, impervious surface ratios; floor area ratio*. Section 3.05.03.B.2 states, "Lots served by a master stormwater management system, where drainage facilities under common ownership are located off-site, may count a portion of the off-site drainage lot, tract or parcel in calculating impervious surface ratios or floor area ratios. The portion of the off-site drainage property that is counted shall be in direct proportion to the size of the subject lot as compared to all of the lots being served." We have done it this way on projects having a common stormwater system such as Discount Tire within the Home Depot subdivision and the commercial lots within the Shoppes of Palm Coast located at the SE corner of SR 100 and Belle Terre Boulevard.

In this case I have looked at the civil plans approved by the City on 1-31-23 for Cornerstone at Seminole Woods (AR#5098). I have also looked at the Longhorn Steak House (AR#5425) Technical Site Plan application which shows the lot area as 1.61 +/- acres. There are also other lots shown at 1.10 +/- acres or even the BJ's Lot F lot at 10.18 +/- acres. This formula would work for any of the lots in this subdivision.

31.75 Acres – Total Site Area

- 3.34 Acres – Preserved Wetlands

28.41 Acres – Developable Area

28.41 Acres divided by 6.58 acres of stormwater pond area = 30% of Developable Area

Hence, each lot receives a credit of 30% of its lot area towards impervious area and floor area ratio standards. Essentially, the balance of the site could all be impervious except that other development standards such as landscaping require additional pervious area be provided.

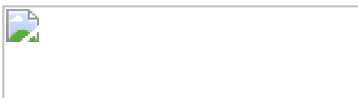
Bill Hoover, AICP

Senior Planner

160 Lake Avenue
Palm Coast, FL
32164

Tel: 386-986-3744

www.palmcoast.gov



From: Ray Tyner <RTyner@palmcoastgov.com>
Sent: Tuesday, June 27, 2023 8:35 AM
To: Bill Hoover <BHoover@palmcoastgov.com>
Subject: FW: BJ's Pervious Area Ratio



June 23, 2023

Gina Lemon
Flagler County Planning Services
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110

RE: App # 3375 – Cornerstone at Seminole Woods: Lot F Variance
Project # 2023050066 / AR # 4116

Dear Gina,

We are in receipt of comments for the referenced project. These comments were generated during the TRC review of the project and delivered to us on June 16th, 2023. We have revised our plans and submitted the material below for your review and approval:

1. Responses to Staff Comments (this letter)
2. Revised Variance Application
3. Variance Site Plan

We offer the following responses to staff comments:

DEVELOPMENT ENGINEERING

1. This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Commercial Subdivision meets the zoning requirements.

RESPONSE: Noted. The project as a whole has slightly less than 50% impervious area.

FIRE INSPECTOR

1. Fire has no issues with this.

RESPONSE: Noted.

PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.

RESPONSE: The impervious area shown is the maximum allowable since some of the out-parcel users are unknown.

2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 District requirements.

RESPONSE: Please see revised page 2 attached to the application.

Should you have any questions or require additional information, please advise.

Sincerely,
The Alann Engineering Group, Inc.



Kimberly A. Buck, P.E.
President

cc: File

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considering in whole or part, creates an unnecessary hardship; and

First, it must be noted that the applicant does not agree that a variance is required. As mentioned by the Development Engineering department in the June 21, 2023 TRC comment letter, the overall subdivision meets the pervious surface requirement even though the 30% requirement is not met for the individual lots. The overall property that is being planned as a unified commercial development is zoned C-2 (General Commercial and Shopping Center) and I (Industrial). The Industrial zoning district permits “[a]ny industrial, office, commercial or related use or structure, provided applicable county standards are met.” LDC Section 3.03.18.B.1. The project is being developed for purely commercial, not industrial purposes, following the county standards as set forth in the C-2 zoning district. The purpose and intent of the C-2 zoning district “is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement.” LDC Section 3.03.17.A. The proposed development consists of six parcels in a unified platted subdivision with common areas consisting of shared stormwater facilities and open space. These are common areas appurtenant to and part of all six of the platted lots, as a matter of law, and should be accounted for in calculating pervious area in development applications. The relevant dimensional standard in LDC Section 3.03.17.D.1(e) regarding “minimum pervious area” does not specify it is to be applied on a per lot, as opposed to a project wide, a basis.

Notwithstanding the applicants position, as noted above, the overall development site contains a substantial wetland system. By utilizing a master stormwater pond, which is appurtenant to but offsite of the individual lots, the applicant is able to avoid additional impacts to the wetlands. Granting a variance to allow for less than 30% impervious on the individual lots (even though that requirement is met for the project as a whole) is not only not contrary to the public health, safety, welfare and morals but is in fact complementary to them.

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

The applicant has acted at all times in good faith under a reasonable interpretation of the code in developing the project as a whole. An interpretation that was shared by planning staff when approving the conceptual site plan for the project and the preliminary plat. The applicant did not create the wetlands on the site that it is endeavoring to protect through the utilization of a master stormwater pond for stormwater management of the project as a whole. By granting the variance to allow each individual lot to take into account the overall pervious areas within the common areas and master stormwater pond, which are appurtenant to and part of each lot as a matter of law, the overall property can be developed in an efficient manner while reducing impacts to the onsite wetland system.

The applicant has also reasonably relied on the County's prior approvals of the site plan and preliminary plat to purchase the development site and commence construction on the project. Requiring the applicant to change the development now would result in a legal detriment and damages.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

As noted above, granting the variance to allowing each individual lot to account for the common areas and master stormwater pond in the pervious calculation will reduce the impacts to the onsite wetlands. Specifically, if stormwater ponds were provided on each individual lot there would be an additional 1.348 acres of wetland impacts on the site. Not only does this support the public health, welfare, safety and morals of the community but also is consistent with and furthers policies in both the Future Land Use and Conservation elements of the Comprehensive Plan.

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

The variance being requested is exclusive to the pervious surface requirements for each individual platted lot and inclusion of the common area and master stormwater system in making that determination. The request is not for any use or building being proposed on the individually platted lots. All uses and buildings proposed or to be proposed for development on these lots are permitted as a matter of right within the C-2 and I zoning districts.

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

The variance being requested is the minimum necessary to address the interpretation of the code raised by staff. As noted above, the applicant does not agree with this interpretation and does not believe it is supported or required by a literal interpretation of the code. The project is a unified development with a master stormwater system and other common pervious areas within the development. This is consistent with the intent of the C-2 zoning district and generally accepted planning principles. Granting the variance to allow these common open space areas to be accounted for when determining the minimum pervious area is the minimum necessary to address the concern raised by staff. It also has the net positive effect of saving an additional 1.348 acres of wetlands from being impacted by the development.

It also needs to be noted that the property is subject to that Pre-Annexation Agreement as recorded in Official Records Book 2755, Page 1924 of the Public Records of Flagler County,

Florida ("Annexation Agreement"). Pursuant to the Settlement Agreement referenced in the Annexation Agreement the property is subject to mandatory annexation into the City of Palm Coast in order to receive water and sewer service from the City. The proposed development conforms to a reasonable interpretation of the County LDC and will conform to the requirements of the City's LDC after annexation. The applicant was not a party to the Settlement Agreement requiring annexation and, therefore, did not create any hardship caused by the mandatory annexation provision. Requiring the applicant to conform to an interpretation of the County's LDC that is arguably incorrect, as explained above, will result in an unnecessary hardship, interfere with the applicant's reasonable investment backed expectations, and cause an additional 1.348 acres of wetland impacts.

For all of the reasons stated above, the applicant respectfully requests that the Planning and Development Board grant the variance and allow the development to proceed pursuant to the site plan and preliminary plat already approved.

FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 6 / 21 / 2023

VARIANCE TO MAXIMUM IMPERVIOUS AREA AT 80% IN THE C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) AND I (INDUSTRIAL) DISTRICTS

APPLICANT: Alann Engineering Group, Inc. / OWNER: BJ's Wholesale Club, Inc.

Distribution date: June 16, 2023

Project #: 2023050065

Application #: 3375

Attached are departmental comments regarding your submittal to Flagler County for the above referenced project. **Any questions regarding any of the comments should be addressed to the department providing the comment.**

Flagler County Building Department	386-313-4002
Flagler County Planning Department	386-313-4009
Flagler County Development Engineering	386-313-4082
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 at this time.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time.

REVIEWING DEPARTMENT: COUNTY ENGINEERING

No comments at this time.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. General Comment:

This site is part of a commercial subdivision containing 31.0+/- acres. There is 30% pervious surface provided for the entire site (over 9.9 acres). Although this specific individual lot does not meet the requirements for the specific zoning (30%) the Overall Subdivision meets the zoning requirements.

REVIEWING DEPARTMENT: E-911 STAFF

No comments at this time.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No comments at this time.

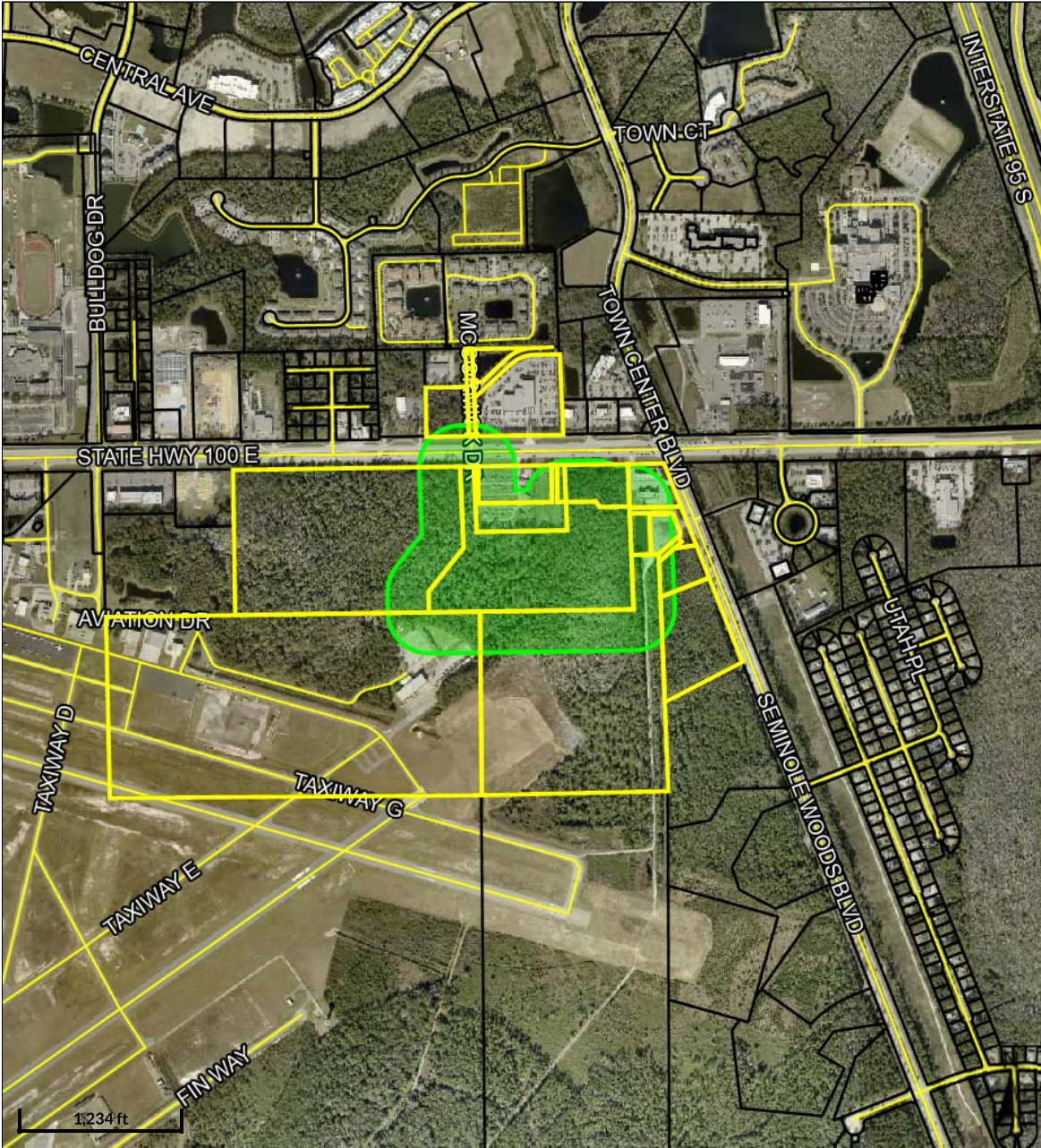
REVIEWING DEPARTMENT: FIRE INSPECTOR

1. Fire has no issues with this.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The site plan does not provide the impervious area.
2. How are the conditions not created by the applicant? The applicant is creating the design of the site. The design of each site is to comply with the C-2 and I District requirements.

App #3375 - Variance



Overview



Legend

- Parcels
- Roads
- Streams and Rivers

Date created: 6/21/2023
Last Data Uploaded: 6/21/2023 8:15:30 AM

Developed by Schneider Geospatial

App #3375
Variance

ParcelId	OwnerName	OwnerAddress1	OwnerAddress2	OwnerCityStZip
08-12-31-0650-000B0-0110	MCCORMICK 100 LLC		24 PORT ECHO LANE	PALM COAST, FL 32164
08-12-31-0650-000A0-0093	CITY OF PALM COAST		160 LAKE AVENUE	PALM COAST, FL 32164
08-12-31-0650-000C0-0070	FLAGLER COUNTY		1769 E MOODY BLVD BLDG 2 SUITE 302	BUNNELL, FL 32110
08-12-31-0176-00000-0010	RACETRAC PETROLEUM INC		200 GALLERIA PARKWAY	ATLANTA, GA 30339
08-12-31-0176-00000-00B0	SEMINOLE/SR 100 PROPERTY OWNERS ASSOC, INC	C/O SILVER OAK ADVISORS LLC	577 BARNES BLVD SUITE 650	ROCKLEDGE, FL 32955
08-12-31-0176-00000-0020	MI VENTURES GROUP LLC		577 BARNES BLVD 650	ROCKLEDGE, FL 32955
08-12-31-0650-000D0-0070	FLAGLER COUNTY		1769 E MOODY BLVD BLDG 2 SUITE 302	BUNNELL, FL 32110
08-12-31-0176-00000-0030	PALM COAST REH LLC		577 BARNES BLVD SUITE 650	ROCKLEDGE, FL 32955
08-12-31-0176-00000-00C0	SEMINOLE/SR 100 PROPERTY OWNERS ASSOC, INC		145 CITY PLACE SUITE 300	PALM COAST, FL 32164
08-12-31-0176-00000-00A1	FLAGLER COUNTY		1769 EAST MOODY BLVD	BUNNELL, FL 32110
08-12-31-0176-00000-00A0	SEMINOLE/SR 100 PROPERTY OWNERS ASSOC, INC		577 BARNES BLVD SUITE 650	ROCKLEDGE, FL 32955
08-12-31-0650-000A0-0090	TLG LLC		5850 E HWY 100	PALM COAST, FL 32164
08-12-31-0650-000B0-0070	FLAGLER PINES PROPERTIES LLC		4 LAMBERT COVE	FLAGLER BEACH, FL 32136
08-12-31-0650-000D0-0051	SEMINOLE WOODS INVESTMENTS, LLC		7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940
08-12-31-0650-000D0-0050	BJ'S WHOLESALE CLUB, INC		350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0071	BJS WHOLESALE CLUB INC		350 CAMPUS AVENUE	MARLBOROUGH, MA 01752
08-12-31-0650-000B0-0074	SEMINOLE WOODS INVESTMENTS, LLC		7331 OFFICE PARK PLACE SUITE 200	MELBOURNE, FL 32940

I hereby affirm mailed notice to each owner on 7 /24 /2023 for the Planning and Development Board meeting on 8 / 8 /2023 at 6:00 pm.


Gina Lemon, Development Review Planner III

Growth Management Department
Planning & Development
1769 E. Moody Blvd, Bldg. 2
Bunnell, FL 32110



www.flaglercounty.org
Phone: (386)313-4009
Fax: (386)313-4109

July 24, 2023

SEMINOLE WOODS INVESTMENTS, LLC
7331 OFFICE PARK PLACE SUITE 200
MELBOURNE, FL 32940

RE: Application #3375 – Variance to Exceed Maximum Impervious Area in the
C-2 (General Commercial and Shopping Center) District

Dear Property Owner:

As owner of property within 300' of the property referenced herein, the Flagler County Planning Department, in accordance with Section 2.07.00 of the Flagler County Land Development Code, advises you that:

A request has been made by applicant Alann Engineering Group, Inc. on behalf of owner Seminole Woods Investment, LLC for a Variance to allow the maximum impervious area up to 90%, the minimum pervious area required in the C-2 District is a minimum of 30% on the subject property as identified proposed Parcel F, in the Preliminary Plat known as Cornerstone at Seminole Woods and known as Parcel Number: 08-12-31-0650-000B0-0071 and 08-12-31-0650-000D0-0050.

You are hereby notified that a public hearing before the **Flagler County Planning and Development Board**, required by law, will be held in the Flagler County Government Services Building, Board Chambers, at 1769 East Moody Boulevard, Building 2, Bunnell, Florida, on **August 8, 2023**, beginning at **6:00 p.m.** or as soon thereafter as possible.

You are welcome to attend and express your opinion.

Sincerely,

A handwritten signature in cursive script that reads "Gina Lemon".

Gina Lemon
Development Review Planner III

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDED TO APPEAL ANY DECISION BY THE BOARD, AGENCY OR COMMISSION WITHRESPECT 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 VERBATUM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTAMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

Andy Dance
District 1

Greg Hansen
District 2

David Sullivan
District 3

Leann Pennington
District 4

Donald O'Brien, Jr.
District 5

APPLICATION # 3373
NOTICE OF PUBLIC HEARING
THE FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD WILL HOLD A PUBLIC HEARING AT:
FLAGLER COUNTY GOVERNMENT SERVICES BUILDING BOARD CHAMBERS
1769 E. MOODY BOULEVARD, BLDG 2; BUNNELL, FL 32110
August 8, 2023 @ 6:00 PM
REQUEST: **80% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**
Parcel Number: 08-12-31-0650-00000-0051 & 08-12-31-0650-00000-0074
Zoning District: C-2 DISTRICT
THE PUBLIC HEARING IS BEING HELD FOR THE PURPOSE OF HEARING ANY AND ALL INTERESTED PARTIES AND PERSONS WHO MAY BE FOR OR AGAINST THE APPLICATION, RELATIVE TO THE PROPERTY WHEREON THIS NOTICE IS POSTED.
For additional information visit web page at: www.flaglercounty.gov or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE.

APPLICATION # 3375
NOTICE OF PUBLIC HEARING
THE FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD WILL HOLD A PUBLIC HEARING AT:
FLAGLER COUNTY GOVERNMENT SERVICES BUILDING BOARD CHAMBERS
1769 E. MOODY BOULEVARD, BLDG 2; BUNNELL, FL 32110
August 8, 2023 @ 6:00 PM
REQUEST: **90% MAX IMPERVIOUS**
APPLICANT: **ALANN ENGINEERING GROUP, INC.**
Parcel Number: 08-12-31-0650-00000-0074 & 08-12-31-0650-00000-0050
Zoning District: C-2 DISTRICT
THE PUBLIC HEARING IS BEING HELD FOR THE PURPOSE OF HEARING ANY AND ALL INTERESTED PARTIES AND PERSONS WHO MAY BE FOR OR AGAINST THE APPLICATION, RELATIVE TO THE PROPERTY WHEREON THIS NOTICE IS POSTED.
For additional information visit web page at: www.flaglercounty.gov or call Flagler County Planning & Zoning Department at (386) 313-4009.
DO NOT REMOVE THIS NOTICE PRIOR TO THE PUBLIC HEARING DATE ABOVE.

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING/AGENDA ITEM #10**

SUBJECT: QUASI-JUDICIAL – Application #3377 – Request for a fifteen foot rear yard (East) setback variance from the required 20 foot minimum rear yard setback in the PUD (Planned Unit Development) District at 46 Audubon Lane. Parcel No. 37-12-31-5627-00000-0640; 18,959+/- square feet. Owner: Steven and Kelsey Swearingen/Applicant: Steven Swearingen. (Project #2023060066).

DATE OF MEETING: August 8, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is for approval of a rear yard setback variance on the (East) side of the lot in the PUD (Planned Unit Development) District. This parcel is 18,959+/- square feet in size, identified as Parcel No. 37-12-31-5627-00000-0640:



On June 26, 2023, Mr. Swearingen submitted an application for a variance following review of an application for a building permit for a pool and pool deck. This request is prior to construction of the improvement.

The Swearingens purchased the subject parcel through the Warranty Deed dated May 26, 2023 and recorded on May 31, 2023 at Official Records Book 2784, Page 1515, Public Records of Flagler County, Florida.

The subject property is described as Lot 64, Sugarmill Plantation, Phase 2 Subdivision as recorded in Plat Book 30, Pages 18 through 19 of the Public Records of Flagler County, Florida. According to the Plat for Sugarmill Plantation Phase 2 the minimum setbacks for

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING/AGENDA ITEM #10**

the proposed pool are: 10 feet on the side and 20 feet to the rear. As also provided on the plat, each lot is subject to grading, drainage, and utility easements of 10 feet along front and rear lot lines, and 7.5 feet along all interior side lot lines. Between Lot 64 and Lot 65 – along Lot 64’s left side (North) lot line – there is a 30 foot wide drainage easement, with 15 feet to each side of the common lot line. If the variance is granted, a partial plat vacation will still be needed to locate the pool and pool deck within the platted easement.

This application was reviewed by the Technical Review Committee (TRC) at its July 19, 2023 meeting. The Technical Review Committee provided comments to be addressed by the applicant, and the applicant provided his response.

Public notice has been provided for this application according to Flagler County Land Development Code Section 2.07.00.

This agenda item is:

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

OPTIONS FOR THE BOARD:

APPROVAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have been met and therefore approves Application #3377 for a fifteen foot rear (East) yard setback variance from the minimum 20 foot rear yard setback for a pool at 46 Audubon Lane (Parcel # 37-12-31-5627-00000-0640).

DENIAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have not been met and therefore denies Application #3377 for a fifteen foot rear (East) yard setback variance from the minimum 20 foot rear yard setback for a pool at 46 Audubon Lane (Parcel # 37-12-31-5627-00000-0640).

CONTINUANCE: The Planning and Development Board continues the variance request on the basis that additional information is needed from staff or the applicant. Based on the presentation and the public hearing, the Board does not have sufficient information to be able to render a decision on the variance request. Continuing the variance request to a time and date certain will preserve public notice and provide an opportunity for staff or the applicant to provide additional information.

ATTACHMENTS:

1. Technical Staff Report
2. Proposed site plan
3. Application and supporting documents
4. TRC comments
5. Applicant’s response to TRC comments
6. Public notice

**APPLICATION #3377
REAR SETBACK VARIANCE
IN THE PUD DISTRICT
46 AUDUBON LANE
TECHNICAL STAFF REPORT**

Application/Project #: 3377/2023060066

Address: 46 Audubon Lane

Owner: Steven and Kelsey Swearingen

Applicant: Steven Swearingen

Parcel #: 37-12-31-5627-00000-0640

Parcel Size: 18,959+/- square feet

Legal Description:

Lot 64, Sugar Mill Plantation Phase II Subdivision as recorded in Plat Book 30, Pages 18 through 19 of the Public Records of Flagler County, Florida.

Existing Zoning and Land Use Classification:

Zoning: PUD (Planned Unit Development) District

Land Use: Mixed Use: Low Intensity/Low-Medium Density

Future Land Use Map Classification/Zoning of Surrounding Land:

North: Mixed Use: Low Intensity/Low-Medium Density/PUD (Planned Unit Development) District

East: Mixed Use: Low Intensity/Low-Medium Density/PUD (Planned Unit Development) District

South: Mixed Use: Low Intensity/Low-Medium Density/PUD (Planned Unit Development) District

West: Mixed Use: Low Intensity/Low-Medium Density/PUD (Planned Unit Development) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.20, *PUD – Planned Unit Development*, Section 3.07.03, *Procedure for variances and special exceptions*, and Section 3.07.03.E, *Variance guidelines* and the Plat for Sugar Mill Plantation Phase II recorded at Plat Book 30, Page 18 and 19, Public Records of Flagler County, Florida.

From the plat for Sugar Mill Plantation, Phase II Subdivision (General Note No. 7):

“Front	25 ft
Side	10 ft
Side Abutting a Street	20 ft
Rear (Structure)	30 ft
” (Pool)	20 ft”

Summary of Request: The subject parcel (Lot 64) is 18,959+/- square feet in size. The Swearingens purchased the subject parcel through the Warranty Deed dated May 26, 2023 and recorded on May 31, 2023 at Official Records Book 2784, Page 1515, Public Records of Flagler County, Florida. Lot 64 has dimensions of: 101.14 feet along its front (West) lot line; 100.00 feet along its rear (East) lot line; 182.02 feet along its left (North) side lot line; and 197.17 feet along its right (South) side lot line. Compared to lots within the immediate vicinity, both Lot 65 and Lot 66 (North of Lot 64) are smaller, with similar width but less lot depth. Lot 64 is impacted by a 15 foot wide platted drainage easement along its left (North) side lot line, which coincides with a 15 foot wide drainage easement along the South lot line of Lot 65 to provide a total drainage easement width of 30 feet.

In addition to the platted drainage easement, General Note No. 8 on the plat states:

“Unless noted otherwise each lot shall have grading, drainage and utility easement as follows:

Front and Rear Lot Lines	10 ft
Side Lot Lines (Interior)	7.5 ft
Side Lot Lines (Street)	10 ft
Front Lot Lines	Non-exclusive 10 ft FP&L Esmt”

Pool Scapes Florida, Inc. has applied for the swimming pool (Building Permit Application No. 2023060238) depicting a five-foot rear yard setback from the rear (East) property line. The permit application received rejection review comments related to the building permit application submittal, with staff requesting that the permit application and site plan be revised to meet the 20 foot minimum rear yard setback for swimming pools as listed on the Plat.

Variance Guideline Analysis

LDC Section 3.07.03.E, *Variance guidelines*, states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant’s statements (included below and attached in their entirety) and staff’s analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique*

features that, when considered in whole or in part, creates an unnecessary hardship; and

Applicant's response: We bought this home under the impression we could build an exercise pool. We were never told we could only use 5' of our backyard. We submitted it to the HOA and was approved with no issues. Our neighbors have pools on the same street. We are not asking for anything outside of our property line except the 5" [sic] setback.

The home is setback further than the required setback. Because of this, we have minimal space to work with. We did not build the house, it was built with an 86 foot setback and the minimum is 25 feet.

Staff analysis: The home is setback further than required, but does appear to match its peer lots located along the East side of Audubon Lane. It appears that the extent of rearward construction for other lots have met the minimum setback requirements and remained outside of the platted easement. The lot size and the location of the home does not provide enough room for a pool.

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

Applicant's response: We have always acted in good faith. We submitted everything to the HOA prior to permitting. HOA approved everything we sent which is why we proceeded with the permit process and contracts.

Such conditions were not created by us. The house was setback at 86 feet and not 25 feet. Otherwise we would have had room to put in the pool.

Staff analysis: The property owner purchased the property with the home in place. According to historical permit records, the home was issued a Certificate of Occupancy on July 13, 2007 (Permit No. 2005090022) following the initial building permit's expiration (Permit No. 23060213; applied on June 20, 2003, issued July 18, 2003, and expired on February 13, 2005). The current owner cannot be held responsible for a prior owner's actions, although they are the recipient of both the good and bad deeds in the parcel's history as the successor owner. While the current owner has acted in good faith by seeking the variance prior to commencing the work, the current owner also knew the conditions that they were purchasing several months ago. An inquiry to the County would have revealed the minimum setback requirements and may have impacted the owners' purchase decision.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: None whatsoever. As mentioned our neighbors also have pools. We are not going outside of our property line and will still keep a 5' setback on our property to the pool.

We bought the lot with the home on it and the setback was further than the minimum required. Had it been setback at the minimum required, we would have had the 20 foot setback.

Staff analysis: Each variance rises or falls on its own merits. This variance is not anticipated to cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of Article III. The lot's rear lot line adjoins a common retention area under the ownership of the Sugarmill Plantation Homeowners' Association, Inc., and designated as a retention area of varying width on the recorded plat.

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

Applicant's response: Understood. This is a single family dwelling and a pool is permitted in tue [sic] zoning district.

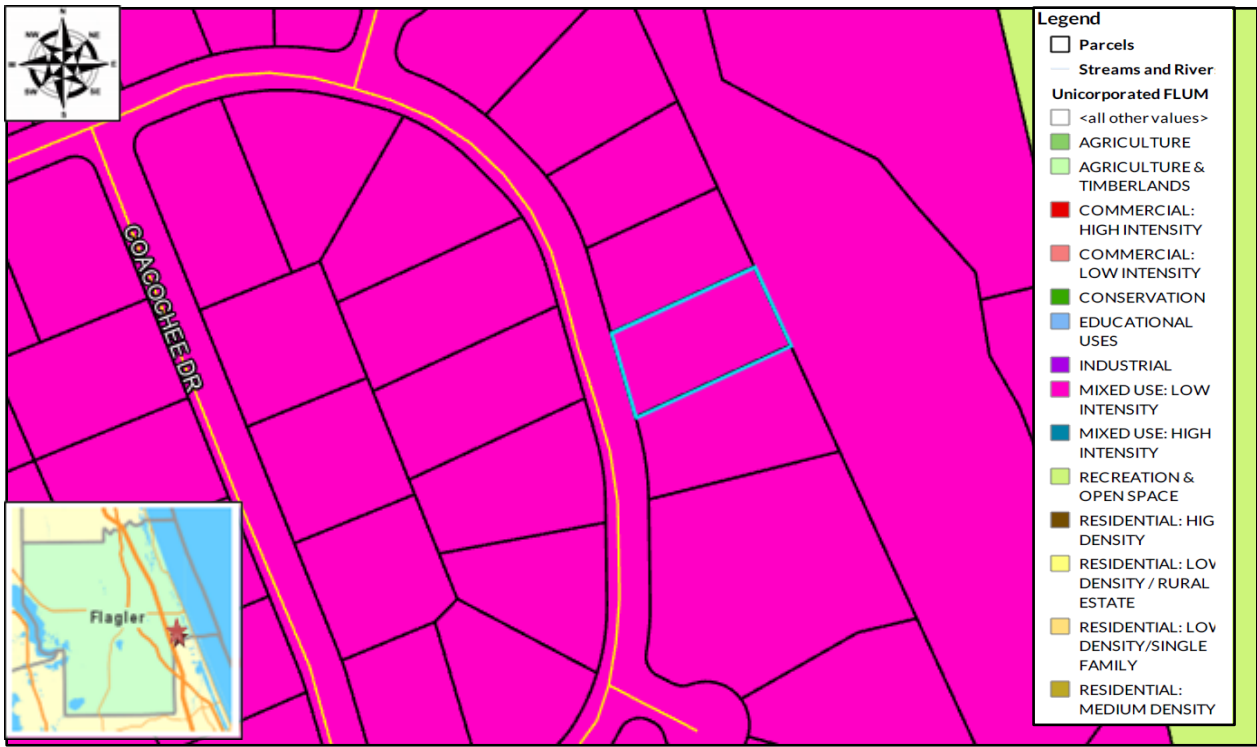
Staff analysis: Construction of a swimming pool and pool deck is permitted within the PUD District.

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

Applicant's response: We are asking for a 15 foot relief on the 20 ft setback. We believe this is the minimum needed for several reasons. Building code requires 5 ft for window/glazing, also the 5 ft space my needed to use a ladder to access our second story.

Staff analysis: The applicant is asking for the minimum amount of relief necessary to complete the pool and deck. An option for the owners is to not build a pool: the denial of the variance request does not deprive the owners of use of their lot, but would prohibit the construction of the pool.

Future Land Use Map



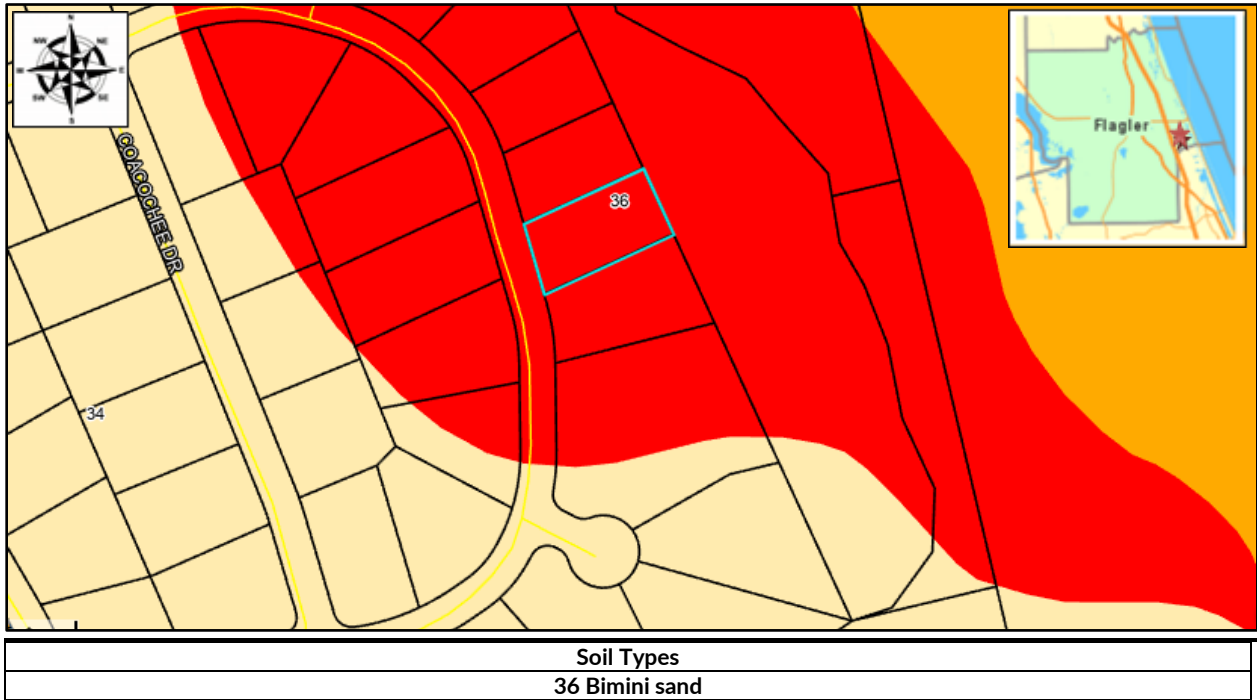
Zoning Map



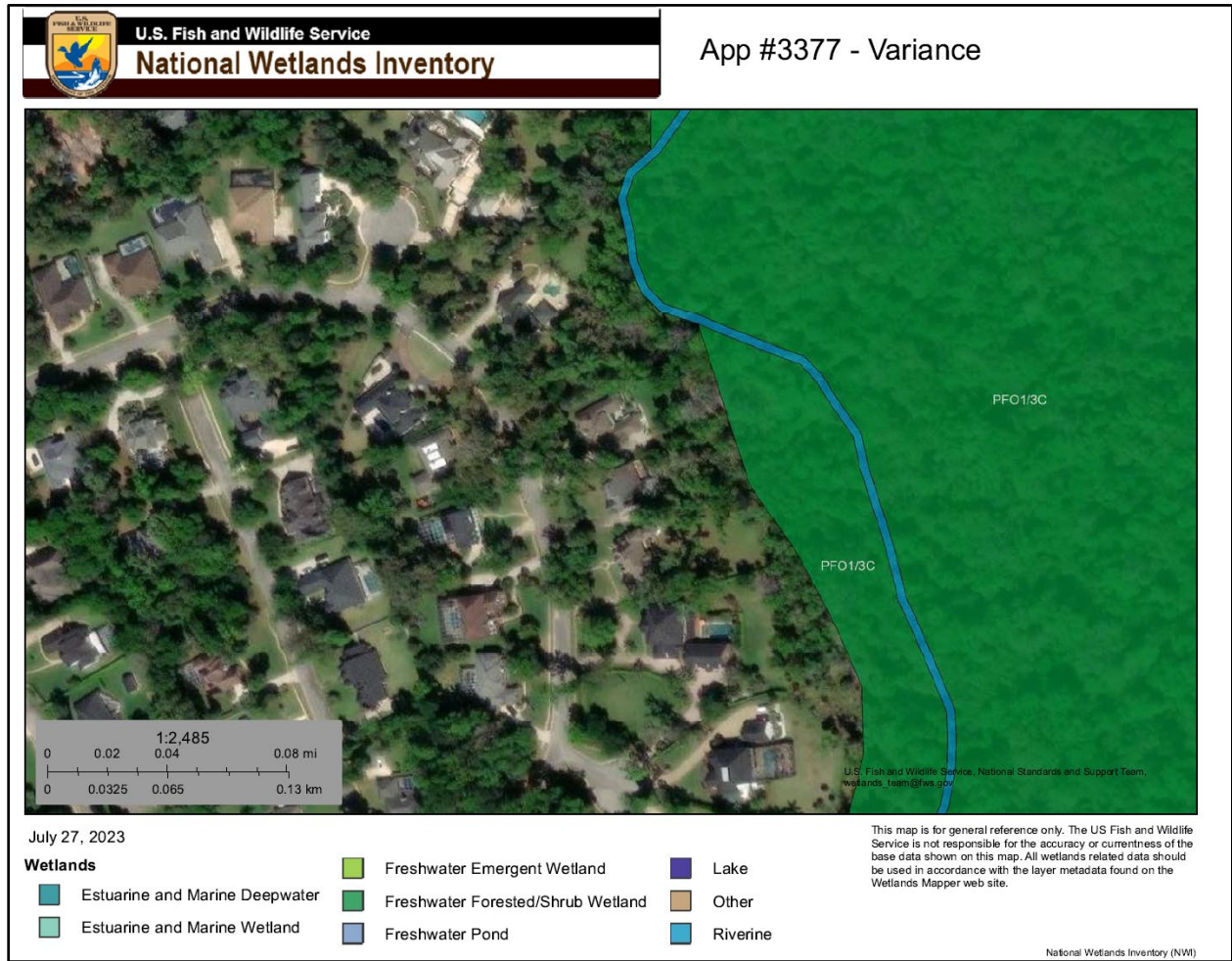
Flood Zone Map



Soils



Wetlands



Construction Legend

- AUTOFILL
- BUBBLER
- DRAIN POOL/SPA
- ECO RETURN
- FLOOR RETURN
- LAMINAR JET
- NICHLESS
- OVERFLOW RETURN
- PARASCOPE
- POOL CLEANER LINE
- RETURN JET
- SCHIMMER
- THERAPY JET
- UMBRELLA SLEEVE
- VOLLEYBALL SLEEVE

ALWAYS ENTER POOL



Feet First

ACRYLIC TEXTURED CONCRETE

Plumbing Sizes

Pool & Spa Main Drain

Branch Lines: 2.5"

Pool & Spa Main Drain

Trunk Lines: 2.5"

Pool & Spa Return/Therapy Jets

Trunk Lines: 2"

Pool Cleaner Line

Suction/Pressure 1.5"

Project Notes

SCREEN FOOTER



Brevard, Flagler, Indian River, Lake, Orange, Osceola, Polk, Seminole, Volusia Counties
Offices Orlando / Cocoa

(321) 326-6499
www.pinnaclepoolsandspas.com

a passion for splashin'

Custom Design for:
 Name: SWEARINGER RESIDENCE
 Address: 46 AUDUBON LN
 City: FLAGLER BEACH
 Zip: 32136
 Subdivision: SUGAR MILL PLANTATIO
 Gate Code:
 Mobile: 352-316-4428
 Email: stvieweeve@hotmail.com

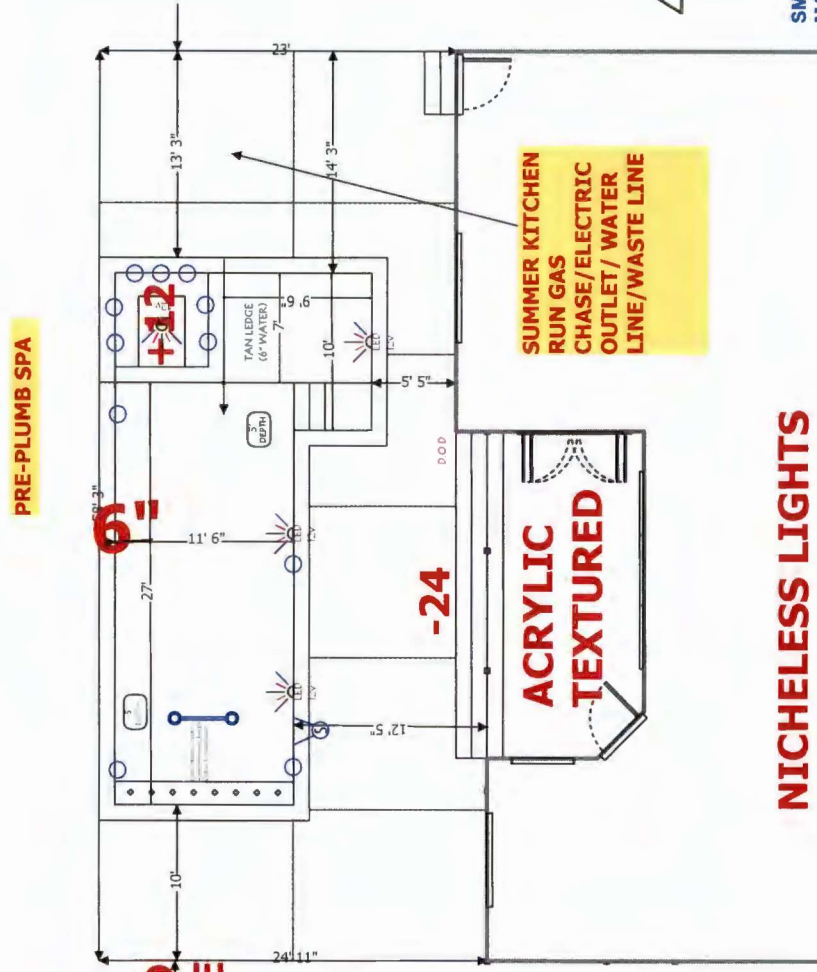
Lot #: 54
 County: FLAGLER
 Permit Thru: FLAGLER
 Permit #:

By signing below you understand that the interior finish cannot be installed until the safety inspection has been passed and final payment had been made per Florida Building Codes & Statutes.

Customer Signature _____
 Date _____

This Rendering is subject to change.
 Measurements of the pool, pool deck, and the position of the pool deck were based on a preliminary plot plan. The plot plan may be different than the actual measurements and the actual construction. The contractor is responsible for verifying all measurements and modify all pool plans, specifications, equipment, and location of remaining pool in order to accommodate any variations between the preliminary plot plan. This may result in additional cost to the homeowner. Retaining footer wall and raised beams required due to unusual lot grading falling to or away from this may result in additional cost to homeowner or builder at risk.

Homeowner is responsible for homeowner association approval (HOA, ARA, ARA, permits, treatment) if necessary, and replacement on all properties involved, more or repair of any landscape on all properties involved, more or repair of any irrigation on all properties involved, more or repair of any landscaping on all properties involved, more or repair of any touch-up, filling of pool and safety code (child safety fence and/or UL listed approved window/door screens and/or ASTM Standard F2208 floating pool alarm and/or approved automatic pool cover and a perimeter yard fence with 5' high handle self-closing out and/or a retaining pool structure.



Pool Depth



Pool Specifications	Spa Specifications
STYLE: RECTANGLE	STYLE: SQUARE
PERIMETER: 101	PERIMETER: 24
WIDTH: 16.5	WIDTH: 6
DEPTH: 3.5	DEPTH: 7
SKIM: 2.5"	SKIM: 1.5"
DOUBLE STEEL: N/A	DOUBLE STEEL: N/A
SUN SHELF: PD	SUN SHELF: PD
WELL WATER: N/A	WELL WATER: N/A
RAISED BEAM EDGE	RAISED BEAM EDGE
+18" N/A	+18" N/A
+24" N/A	+24" N/A
WATER FEATURES:	WATER FEATURES:
DECK JETS: N/A	DECK JETS: N/A
SCUPPER: N/A	SCUPPER: N/A
FIRE PIT: N/A	FIRE PIT: N/A
WATERFALL: N/A	WATERFALL: N/A
NOTES: N/A	NOTES: N/A

Pool Equipment	Screen/Fence
PUMP: FRODO	MOOSE: N/A
FILTER: CARTRIDGE	TYPE: N/A
PUMP2: N/A	SCREEN: N/A
FILTER2: N/A	ELITE: N/A
LIGHT: 24W/12V	HEAT: N/A
UV: N/A	HEAT: N/A
CONTROLS: RES WITH JADUALINI	CONTROL: N/A
AUTOFILL & DRAIN: N/A	AUTOFILL & DRAIN: N/A
NOTES: N/A	NOTES: N/A

Deck Specifications	Site Specifications
MATERIAL: ACRYLIC TEXTURED CONCRETE	MACHINE SIZE: SMALL
DIMENSIONS: PD	ACCESS: RIGHT
PATIO DIM: PD	ELEVATION: TBD
CONC RISER: N/A	SOFTENING: N/A
DRAIN: 2"	SOFTENING: N/A
TURN DOWN DECK EDGE:	REMOVAL:
+8" N/A	STUMPS: N/A
+12" N/A	SIDEWALK: N/A
+18" N/A	CONCRETE SLAB: N/A
+24" N/A	NOTES: N/A

Color Selections:	Change Orders:
TILE SPECIFICATIONS:	DESCRIPTION
+16" N/A	DATE
+12" N/A	
+24" N/A	
DECOS: N/A	
STEP TILE: YES	
STEP TILE PATTERN: 3X3 DIAMOND	
NOTES: LEVEL 1	
DECK SPECIFICATIONS:	
COLOR: PATTERN: N/A	
COPING COLOR: SAME	
GROUT COLOR: N/A	
NOTES: LEVEL 1	
INTERIOR SPECIFICATIONS:	
COLOR HEADS: N/A	
STYLE: QUARTZ	
RETURN: WHITE	
NOTES: LEVEL 1	



APPLICATION FOR VARIANCE

FLAGLER COUNTY, FLORIDA
 1769 E. Moody Blvd, Suite 105
 Bunnell, FL 32110

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

Application/Project #: 3377 / 2023060066

PROPERTY OWNER(S)	Name(s): <u>Steven Swearingen</u>	
	Mailing Address: <u>46 Audubon Lane</u>	
	City: <u>Flagler Beach</u> State: <u>FL</u>	Zip: <u>32136</u>
	Telephone Number <u>352-316-4428</u>	Fax Number

APPLICANT/AGENT	Name(s): <u>Steven Swearingen</u>	
	Mailing Address: <u>46 Audubon Lane</u>	
	City: <u>Flagler beach</u> State: <u>FL</u>	Zip: <u>32136</u>
	Telephone Number <u>352-316-4428</u>	Fax Number
	E-Mail Address: <u>stevie weeve@hotmail.com</u>	

RECEIVED
 JUN 26 2023
 Flagler County
 Planning & Zoning Dept.

SUBJECT PROPERTY	SITE LOCATION (street address): <u>46 Audubon Lane</u>	
	LEGAL DESCRIPTION: (briefly describe, do not use "see attached") <u>Sugar mill Plantation Phase 2 Lot 64</u>	
	Parcel # (tax ID #): <u>3712315627000000640</u>	
	Parcel Size: <u>18,959.985</u>	
	Current Zoning Classification: <u>PUD</u>	
	Current Future Land Use Designation: <u>Mixed use low intensity</u>	
	Subject to A1A Scenic Corridor IDO?	<input type="checkbox"/> YES

Relief Requested: setback variance approval for pool construction, current 20 ft setback does not allow us to build on our property. HOA has already reviewed plans and approved.

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

Date 6/22/23

****OFFICIAL USE ONLY****

PLANNING BOARD RECOMMENDATION/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. 09/16



APPLICATION FOR VARIANCE

FLAGLER COUNTY, FLORIDA

1769 E. Moody Blvd, Suite 105

Bunnell, FL 32110

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

Subject Property: 46 Audubone Lane

E. *Variance guidelines.* A variance may be granted, upon application, from the terms and provisions of this article as will not be contrary to the public health, safety, welfare and morals where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship. Such variances may be granted by the planning board in such individual case of unnecessary hardship upon a written finding that:

1. There are extraordinary and exceptional conditions pertaining to particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or part, creates an unnecessary hardship; and

We bought this home under the impression we could build an exercise pool. We were never told we could only use 5' of our backyard. We submitted it to the HOA and was approved with no issues. Our neighbors have pools on the same street. We are not asking for anything outside of our property line except the 5" setback

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

We have always acted in good faith. We submitted everything to the HOA prior to permitting. HOA approved everything we sent which is why we proceeded with the permit process and contracts.

3. The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and

None whatsoever. As mentioned our neighbors also have pools. We are not going outside of our property line and will still keep a 5' setback on our property to the pool.

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

Understood

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



THIS INSTRUMENT PREPARED BY AND RETURN TO:
Title America Real Estate Closings
10448 Old Saint Augustine Road
Jacksonville, FL 32257
904.262.6400w
FILE: 46292

Parcel ID#: 37-12-31-5627-00000-0640
SALE PRICE: \$860,000.00

SPACE ABOVE THIS LINE FOR RECORDING DATA

WARRANTY DEED

THIS WARRANTY DEED, made the 26th day of May, 2023, by

Doorbia, LLC, a Florida Limited Liability Company,

whose post office address is 4231 Walnut Bend, Ste 5, Jacksonville, FL 32257, herein called the Grantor, to

Steven Swearingen and Kelsey Swearingen, husband and wife,

whose post office address is 46 Audubon Lane, Flagler Beach, FL 32136, hereinafter called the Grantee:
(Wherever 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)

W I T N E S S E T H: That the Grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain land situate in **FLAGLER** County, State of Florida, viz.:

Lot 64, Sugar Mill Plantation, Phase II, according to the map or plat thereof, as recorded in Map Book 30, Pages 18 and 19, of the Public Records of Flagler County, Florida.

Subject to easements, restrictions and reservations of record and taxes for the year 2023 and thereafter.

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

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

AND, the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2022.**

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

Signed, sealed and delivered in the presence of:

[Signature]
Witness #1 Signature

Merrill A Crowley
Witness #1 Printed Name

Doorbia, LLC, a Florida Limited Liability Company

By: [Signature]
Nawid T. Rostayee, Managing Member

[Signature]
Witness #2 Signature

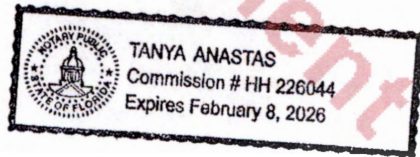
Tanya Anastas
Witness #2 Printed Name

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of (X) physical presence or () online notarization this this 26th day of May, 2023, by Nawid T. Rostayee, Managing Member of Doorbia, LLC, a Florida Limited Liability Company, on behalf of the Company.

[Signature]
Signature of Notary Public

Tanya Anastas
Print, Type/Stamp Name of Notary



Personally known: _____ OR Produced Identification:
Type of Identification Produced: Drivers License

FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 7 / 19 / 2023

A 15-FOOT VARIANCE FROM THE REQUIRED 20-FOOT SETBACK FOR A POOL IN
THE IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT

APPLICANT: Steve Swearingen / OWNER: Steve and Kelsey Swearingen

Distribution date: July 14, 2023

Project #: 2023060066

Application #: 3377

Attached are departmental comments regarding your submittal to Flagler County for the above referenced project. **Any questions regarding any of the comments should be addressed to the department providing the comment.**

Flagler County Building Department	386-313-4002
Flagler County Planning Department	386-313-4009
Flagler County Development Engineering	386-313-4082
Flagler County General Services (Utilities)	386-313-4184
County Attorney	386-313-4005
Flagler County Fire Services	386-313-4258
E-911 GIS Specialist	386-313-4274
Environmental Health Department	386-437-7358
Flagler County School Board	386-586-2386

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

1. No comments at this time

REVIEWING DEPARTMENT: COUNTY ATTORNEY

1. No comments at this time.

REVIEWING DEPARTMENT: COUNTY ENGINEERING

1. No comments at this time.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. There is a 15 ft side yard drainage easement on the left side of the home that shall not be encroached into.
2. The parcel in the rear is for subdivision stormwater.
3. Grading outside of the lot in not permitted.
4. A site grading plan will be required.

REVIEWING DEPARTMENT: E-911 STAFF

1. No comments at this time.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

1. No comments or objections due to septic system location in front yard, and not within project area.

REVIEWING DEPARTMENT: FIRE INSPECTOR

1. No issues with the variance.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. Please justify the pool with the size, shape, topography or other unique features of your lot. Provide justification statements related to the lot, not the HOA.
2. Such conditions were not created by the affirmative actions of the applicant and the applicant has acted at all times in good faith. Please relate this statement to your actions and not the HOA. The HOA approval means nothing to the County, we do not require HOA approval prior to getting a permit.
3. Relate the variance if granted to your lot only, not your neighbors. The variance is specific to your lot only.
4. Please provide a statement for, no variance may be granted for a use of land or building that is not permitted by this article. Please do not provide "understood".
5. Provide a statement at the last item; a variance if granted shall be the minimum necessary to alleviate the hardship. For purposes of this section, an unnecessary hardship shall mean that without the granting of the variance the owner will be deprived of all reasonable use of the property as allowed in the zoning district.

Gina Lemon

From: Steven swearigen <steveweeve@hotmail.com>
Sent: Thursday, July 20, 2023 11:42 AM
To: Gina Lemon
Cc: Adam Mengel, AICP, LEED AP BD+C; Chuck Merenda
Subject: Re: Application #3377 - Variance

Good morning,
Per the TRC comments and meeting yesterday, here are my responses:

1. The home is setback further than the required setback. Because of this, we have minimal space to work with. We did not build the house, it was built with an 86 foot setback and the minimum is 25 feet.
2. Such conditions were not created by us. The house was setback at 86 feet and not 25 feet. Otherwise we would have had room to put in the pool.
3. We bought the lot with the home on it and the setback was further than the minimum required. Had it been setback at the minimum required, we would have had the 20 foot setback.
4. This is a single family dwelling and a pool is permitted in the zoning district.
5. We are asking for a 15 foot relief on the 20 ft setback. We believe this is the minimum needed for several reasons. Building code requires 5 ft for window/glazing, also the 5 ft space is needed to use a ladder to access our second story.

Please let me know if there is anything else you need as well as next steps on my end.

Thanks again,
Steven Swearingen

Sent from my iPhone

On Jul 14, 2023, at 3:32 PM, Gina Lemon <glemon@flaglercounty.gov> wrote:

Good afternoon -

Attached please find the agenda and TRC review comments for the above referenced application to be reviewed by the Technical Review Committee at their Wednesday, July 19, 2023, at 9:00 a.m. in the 1st Floor Conference Room of the Government Services Building at 1769 E. Moody Boulevard, Building 2 in Bunnell. Please have a representative available at the meeting for this item.

The complete agenda and backup may be viewed at the following [LINK](#), scroll to the bottom of the page for the Committee Documents.

Have a good day,
Gina

Gina Lemon

Development Review Planner

E: glemon@flaglercounty.gov | V: 386-313-4067 | W: www.flaglercounty.gov

Flagler County Board of County Commissioners

1769 E. Moody Blvd., Bldg 2

Bunnell, FL 32110

[<Facebook 33 202b2743-dc8d-4cd7-bef9-31031ce7dc96.png>](#)

[<Flagler 04b6e82c-74d9-4620-b771-cd69babba5df.png>](#)

[<Twitter 33 75db152f-9b9b-4c2e-a833-c4ede59143c1.png>](#)

[<YouTube 33 5e4eb2ca-9641-402a-8119-a669e75acaac.png>](#)

[<LinkedIn 33 51633041-e442-427b-919e-0bceb3339976.png>](#)

[<UGOV 33 d4bd9f17-3452-4187-94cf-4ecc6b045d84.png>](#)

The mission of Flagler County is to provide high-quality services through a responsive workforce committed to excellence, integrity, in collaboration with the cities and to act as a fiscally responsible steward.

This message contains confidential information and is intended only for the individual(s) addressed in the message. If you are not the named addressee, you should not disseminate, distribute, or copy this e-mail. If you are not the intended recipient, you are notified that disclosing, distributing, or copying this e-mail is strictly prohibited.

<2023 07 19 TRC Agenda.pdf>

<App #3377 - TRC Comments 20230719.pdf>




App #3377 - Variance



Overview



Legend

-  Parcels
-  Roads
-  Streams and Rivers

Date created: 7/18/2023
Last Data Uploaded: 7/18/2023 8:32:53 AM

Developed by  Schneider
GEOSPATIAL

App #3377

Variance

ParcelId	OwnerName	OwnerAddress1	OwnerAddress2	OwnerCityStZip
37-12-31-5625-00000-00A1	BULOW SUGAR MILL	PLANTATION INC	34 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5625-00000-00A2	SUGARMILL PLANTATION HOMEOWNER	ASSOCIATION INC	1166 PELICAN BAY DRIVE	DAYTONA BEACH, FL 32119
37-12-31-5627-00000-0620	LOMBARDO PATRICK & CHARLOTTE KIM BANISTER H&W		50 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0630	LUJO RODRIGO &	MARIA DEL MAR GARCIA LUJO H&W	48 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0640	SWEARINGEN STEVEN & KELSEY H&W		46 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0650	SMITH DOUGLASS W &	SHARON E VASKY-SMITH H&W	44 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0660	SMITH BRIAN & MARY H&W	LIFE ESTATE	18745 SW 84TH COURT	CULTER BAY, FL 33157
37-12-31-5627-00000-0670	ADAMS THOMAS AVENT &	LISA MARIE H&W	40 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0690	CASHIO RICHARD VERNON JR		34 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0760	MCNITT TERRY M & ASHLEY G	MCNITT H&W	39 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0770	DIXON DAVID & KARA DIXON		43 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0780	VARSALONE JAMES E & CHERYL A	H&W	45 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0790	CIBIRAS JOHN E & CYNTHIA M H&W	LIFE ESTATE	47 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0800	BROWN EDWARD B IV		51 AUDUBON LANE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0810	MCGINNIS-SWEET SHELLIE		PO BOX 219	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0830	CARLISI ROY		8 COACOCHEE DRIVE	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0840	ERMAKOV EVGENY	& LARISA H&W	6 COACOCHEE DR	FLAGLER BEACH, FL 32136
37-12-31-5627-00000-0850	SPASSOFF SHANE ALEX	& LIZA LUCAS H&W	4 COACOCHEE DR	PALM COAST, FL 32137

I hereby affirm mailed notice to each owner on 7 / 24 /2023 for the Planning and Development Board meeting on 8 / 8 /2023 at 6:00 pm.


Gina Lemon, Development Review Planner III

Growth Management Department
Planning & Development
1769 E. Moody Blvd, Bldg. 2
Bunnell, FL 32110



www.flaglercounty.org
Phone: (386)313-4009
Fax: (386)313-4109

July 24, 2023

SUGARMILL PLANTATION HOMEOWNER
ASSOCIATION INC
1166 PELICAN BAY DRIVE
DAYTONA BEACH, FL 32119

Re: Application #3377 – Variance in the PUD (Planned Unit Development) District

Property Owner:

Dear Property Owner:

As owner of property within 300' of the property referenced herein, the Flagler County Planning Department, in accordance with Section 2.07.00 of the Flagler County Land Development Code, advises you that:

A request has been made by applicant Steve Swearingen on behalf of owners Steve and Kelsey Swearingen for a 15-foot Rear Setback Variance from the minimum required 20-foot Rear Setback for a swimming pool on the subject property at 46 Audubon Lane, on a 18,959 square foot lot and identified as Parcel Number: 37-12-31-5627-00000-0640.

You are hereby notified that a public hearing before the **Flagler County Planning and Development Board**, required by law, will be held in the Flagler County Government Services Building, Board Chambers, at 1769 East Moody Boulevard, Building 2, Bunnell, Florida, on **August 8, 2023**, beginning at **6:00 p.m.** or as soon thereafter as possible.

You are welcome to attend and express your opinion.

Sincerely,

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDED TO APPEAL ANY DECISION BY THE BOARD, AGENCY OR COMMISSION WITHRESPECT 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 VERBATUM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTAMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

Andy Dance
District 1

Greg Hansen
District 2

David Sullivan
District 3

Leann Pennington
District 4

Donald O'Brien, Jr.
District 5

Application #3377 - Variance



APPLICATION # 3377
NOTICE OF PUBLIC HEARING
THE FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD WILL HOLD A PUBLIC HEARING AT
FLAGLER COUNTY GOVERNMENT SERVICES BUILDING BOARD CHAMBERS 1705 E. MOODY BOULEVARD, BLDG 2, BUNNELL, FL 32110
AUGUST 8, 2023 @ 6:00 P.M.
REQUEST: 1E VARIANCE FOR POOL
APPLICANT: STEVEN SMITH/SENLER
Parcel Number: 2023-00000000000000000000
Zoning District: R-100 (RESIDENTIAL SINGLE-DWELLING)
The Public Hearing is being held prior to the approval of the proposed plan and any necessary zoning and subdivision amendments. All interested parties are invited to attend and voice their comments. The hearing will be held at the location and time listed above. If you have any questions, please contact the Planning and Development Department at (386) 768-2200.

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
PUBLIC HEARING/AGENDA ITEM #11**

SUBJECT: QUASI-JUDICIAL – Application #3378 – Request for Approval of a Preliminary Plat for Hammock Park; Parcel Number: 40-10-31-3280-00000-0010; 0020; 00A0; 0030 and 0050; 7.02+/- acres. Owner: DbD Solutions, LLC; Agent: Stephenson Wilcox & Associates. (Project #2023060068).

DATE OF MEETING: August 8, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The subject parcel lies East of N. Oceanshore Boulevard and West of Hammock Dunes Parkway:

Property Appraiser Aerial



The agent on behalf of the owner submitted a preliminary plat application and supporting documents to the County dated June 22, 2023. Through the submittal, the applicant is seeking approval of a preliminary plat for 19 single-family detached residential lots in the Hammock Park Planned Unit Development (PUD). The Hammock Park PUD was approved by the Board of County Commissioners on March 20, 2023 through adoption of Ordinance No. 2023-04 and was recorded on April 4, 2023 at Official Records Book 2768, Page 1024, Public Records of Flagler County, Florida. The requested preliminary plat approval is a replat of the Hammock Commercial Park subdivision, recorded at Map Book 37, Pages 10 and 11, Public Records of Flagler County, Florida.

The application for the preliminary plat was discussed by the Technical Review Committee on July 19, 2023. The applicant has agreed to respond to any outstanding

staff comments through revisions that will be made prior to the Board of County Commissioners' meeting in September.

BCC review authority: Section 4.05.02, LDC, requires that the Board of County Commissioners review and approve, approve with conditions, or disapprove preliminary plats following consideration of the Planning and Development Board's recommendations and the factual data presented during the public hearing in support of the request.

This agenda item is:

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

Public Notice: Public notice has been provided in accordance with Section 2.07.00 of the LDC.

OPTIONS FOR THE BOARD: The Planning and Development Board recommends to the Board of County Commissioners:

APPROVAL of the preliminary plat for the Hammock Park Subdivision, subject to:

- a. no construction to commence prior to issuance of a County land development permit;
- b. no final plat approval to occur until extension of potable water and sanitary sewer is installed and approved by the City of Palm Coast as the utility provider; and
- c. a waiver of the County's secondary means of emergency ingress and egress (LDC Sec. 4.06.02.M.) requirement will be needed as part of the final plat approval; and
- d. any subdivision improvements not completed by the developer to be bonded or other surety provided consistent with the requirements of the Land Development Code.

DENIAL of the preliminary plat for the Hammock Park Subdivision.

CONTINUANCE of the preliminary plat for the Hammock Park Subdivision to a time and date certain.

ATTACHMENTS:

1. Technical Staff Report (TSR)
2. Preliminary Plat
3. Application
4. TRC review comments
5. Public Notice

**APPLICATION #3378
PRELIMINARY PLAT FOR
HAMMOCK PARK SUBDIVISION
TECHNICAL STAFF REPORT**

Chapter 177, Florida Statutes, includes statewide platting requirements, while Land Development Code (LDC) Section 4.05.02 provides for minimum plat submittal requirements. The Comprehensive Plan does not specifically address platting requirements but does include provisions related to concurrency and public facilities.

Plat Specific Review

Hammock Park is a partial replat of the Hammock Commercial Park subdivision plat, as recorded at Map Book 37, Paes 10 and 11, Public Records of Flagler County, Florida. To accomplish the replat, Lots 1, 2, 3, and 5, along with Tract A (the existing stormwater pond) and Tract B (Hammock Park Lane) are being replatted.

The preliminary plat depicts 19 single-family detached lots. The largest lot appears to be Lot 8 and 9 (13,091 s.f.) and multiple lots are at 9,897 s.f. (on the North side of Hammock Park Lane) and 10,144 s.f. (on the South side). Lots range in width from 59 feet (for the 9,897 s.f. lots) to 60.47 feet (for the 10,144 s.f. lots) and 78.04 feet for Lots 8 and 9 (the 13,091 s.f. lots). All lots are 174.55 feet deep, with side lot lines parallel but angled so that lots align parallel to North Oceanshore Boulevard (a/k/a State Road A1A).

As described on the plat:

Tract Name	Use	Dedicated To/Maintained By
Tract "A" (41,728 s.f.)	Private road: private street purposes, drainage and utility easement	Hammock Park Owners Association
Tract "B" (4,985 s.f.)	A-1-A Scenic Corridor Buffer	Hammock Park Owners Association
Tract "C" (5,169 s.f.)	A-1-A Scenic Corridor Buffer	Hammock Park Owners Association
Tract "D" (5,974 s.f.)	Driveway tract: ingress, egress, utilities, drainage, and other purposes not inconsistent	Hammock Park Owners Association
Tract "E" (51,230 s.f.)	Stormwater management and drainage	Hammock Park Owners Association

The roadway tract, labeled as Hammock Park Lane, is identified as a 50 foot wide private roadway tract (Tract "A") for private road purposes. The roadway tract is dedicated to the Hammock Park Owners Association for ownership and maintenance.

The plat's Dedication and Reservation block calls out both drainage and utility easements depicted on the plat, reserving drainage easements to the Hammock Park Owners Association, and providing for the installation and maintenance of cable television systems within utility easements. However, no specific drainage or utility easements are identified in the General Notes or depicted on the plat. An Acceptance of Reservations signature block will need to be added to the plat to provide acknowledgement by the Hammock Park Owners Association of their assumption of ownership and maintenance of the tract dedications.

General Note No. 10 provides for the priority of easements:

“In those cases where easements of different types cross or otherwise coincide, drainage easements shall have first priority, utility easements shall have second priority, access easements shall have third priority, and all other easements shall be subordinate to these with their priorities being otherwise determined by the use rights granted.”

Lot 4 of the Hammock Commercial Park plat will not be part of the Hammock Park development. Lot 4 is a wellsite for the Dunes Community Development District, and is owned by the Dunes CDD (see Warranty Deed dated April 15, 2012 and recorded on April 20, 2010 at Official Records Book 1764, Page 1161, Public Records of Flagler County, Florida). There is no requirement for the Dunes CDD to join in with the replat request; Lot 4 can remain outside of the replat boundaries, and the Owners Association is obligated to maintain access for Lot 4 for wellsite maintenance purposes. It is noted that Hammock Park does not receive utilities from the Dunes CDD. All utilities within Hammock Park will be provided by the City of Palm Coast.

Public Services and Utilities

The City of Palm Coast provides water and sewer service. Electric is provided by Florida Power and Light. Fire and EMS services are available from Flagler County's Station 41, with fire water supply provided through the development's central water system with the supply water provided by City of Palm Coast. The Flagler County Sheriff's Office responds to calls for law enforcement services in this area. Solid waste service is provided by WastePro and billed by Flagler County with disposal in Volusia County.

Vehicular and Pedestrian Access

The development will have a single access point to N. Oceanshore Boulevard. A waiver (LDC Section 4.07.00) of the County's emergency secondary means of ingress and egress (LDC Section 4.06.02.M.) will be needed at the time of final plat approval.

Hammock Park Lane was previously constructed as part of the subdivision improvements for the Hammock Commercial Park subdivision. With a radius of 51 feet (and mountable curbing), the cul-de-sac diameter meets the County's 100 foot minimum cul-de-sac turnaround area requirement (LDC Section 4.06.02.1.2.).

As provided in the approved Hammock Park PUD, a sidewalk with a minimum width of five feet will be constructed as each residence is constructed within the private roadway tract on both sides of Hammock Park Lane.

A school bus stop is proposed within the apron for Hammock Park Lane. Tract "D" is anticipated to include a walking amenity, likely a dog walk, and recreation amenities are specifically called out in the Hammock Park PUD Development Agreement for inclusion within Tract "A" and Tract "E". (see Hammock Park PUD Section 4.2(i)).

Stormwater

The existing stormwater pond is located within Tract "E" and the entirety of the stormwater system is owned and maintained by the Hammock Park Owners Association. Eight curb inlets – four on each side of Hammock Park Lane – are located within Tract "A", the private roadway tract. Curbing is a concrete Miami (mountable) curb. No changes to the existing curb and gutter improvements are anticipated.

No portion of Hammock Park is within the Special Flood Hazard Area (SFHA).

St. Johns River Water Management District Permit No. 96099-1 was issued for the Hammock Commercial Park development on May 3, 2005 and is in a closed status. The ultimate outfall for the Hammock Park stormwater system is the Hammock Dunes stormwater system, with the outfall draining into a ditch running along the East line of Tract "E" of Hammock Park and the East line of Lot 4 of Hammock Commercial Park. A crossing to the North goes under Hammock Dunes Parkway, with stormwater then comingling with the Dunes and ultimately making its way to the Intracoastal Waterway.

Other Considerations

Development is contingent upon the extension of sanitary sewer – provided by the City of Palm Coast – to serve the proposed development. A common lift station will be shared between Hammock Commercial Park and Cinnamon Grove Village.

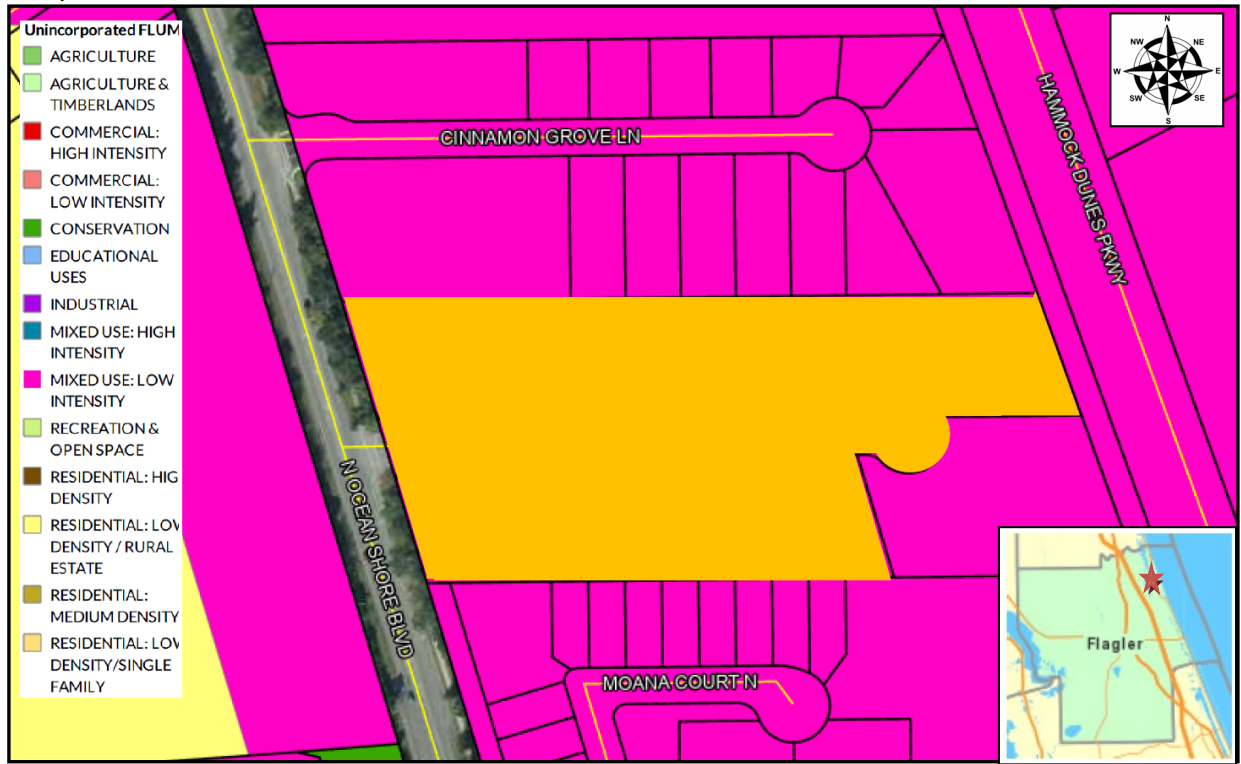
It is also again noted that the landscape buffer requirements adjacent to North Oceanshore Boulevard as listed in the Land Development Code are specific to off-street parking and vehicle use areas as would be encountered with commercial uses, not residential development. (see LDC Section 5.01.04.(5)(a)1a.). This does not create a

40 foot wide buffer requirement as has been erroneously reported previously; however, the Hammock Park developer has proposed a 30 foot wide landscape buffer adjacent to the North Oceanshore Boulevard right-of-way. (see Sec. 4.2(d) in the Hammock Park PUD Development Agreement). Both Tract "B" (South of Hammock Park Lane) and Tract "C" (North of Hammock Park Lane) are a minimum of 30 feet wide, adjoining North Oceanshore along its East right-of-way line.

Zoning Map



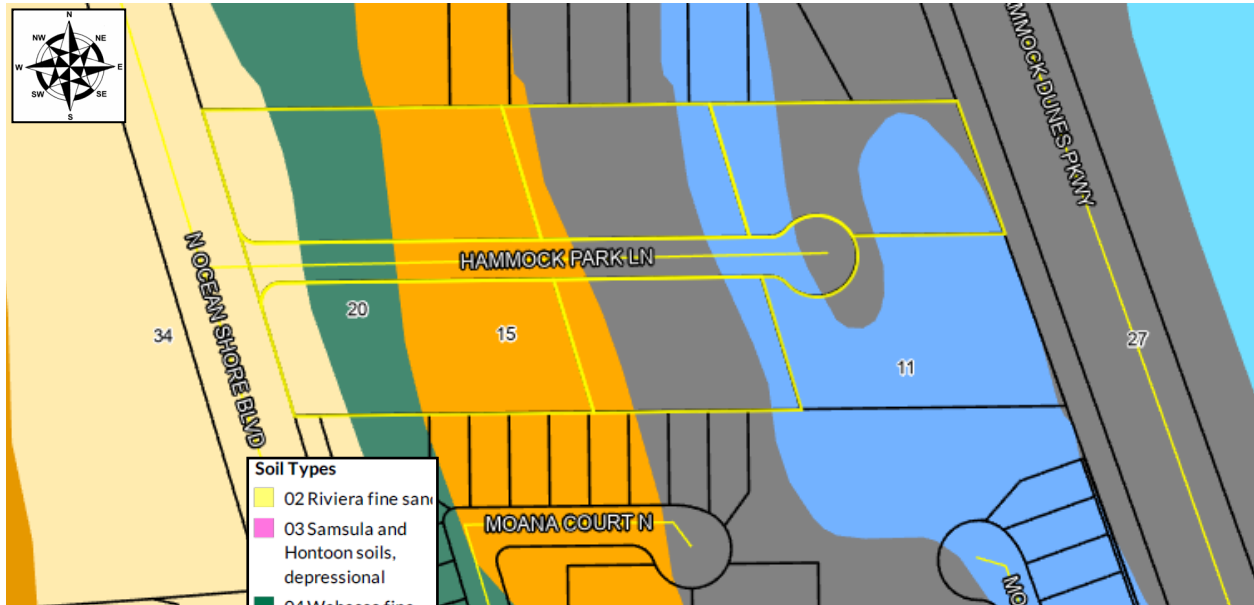
Future Land Use Map



Flood Zone Map



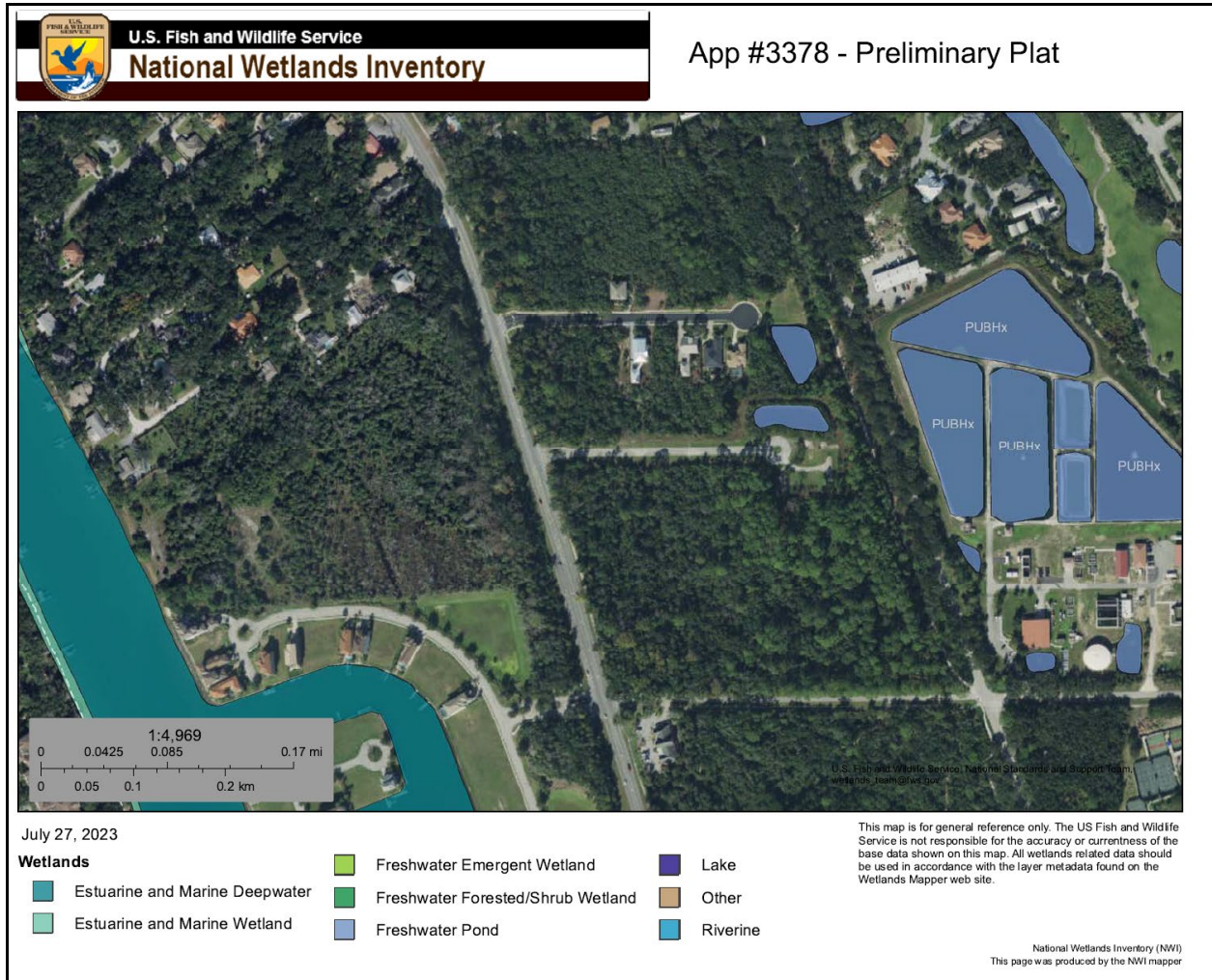
Soils Map



- Soil Types**
- 02 Riviera fine sand
 - 03 Samsula and Hontoon soils, depressional
 - 04 Wabasso fine sand
 - 05 Pineda-Wabass complex
 - 06 Favoretta clay
 - 07 Favoretta, Chobee, and Winder soils, frequently flooded
 - 08 Hicoria, Riviera, and Gator soils, depressional
 - 09 Eau Gallie fine sand
 - 10 Winder fine sand
 - 11 Myakka fine sand
 - 12 Placid, Basinger, and St Johns soils, depressional
 - 13 Immokalee fine sand
 - 14 Pineda fine sand
 - 15 Pomello fine sand, 0 to 5% slope
 - 16 Malabar fine sand
 - 17 Holopaw fine sand
 - 18 Valkaria-Smyrna Complex
 - 19 Valkaria fine sand
 - 20 Orsino fine sand, 0 to 5% slopes
 - 21 Smyrna fine sand

- 22 Astatula fine sand, 0 to 8% slopes
- 23 Adamsville fine sand, 0 to 3% slopes
- 24 Samsula and Placid soils, frequently flooded
- 25 Tavares fine sand, 0 to 5% slopes
- 26 Turnbull and Pellicer soils, tidal
- 27 Cassia fine sand
- 29 Udarents, moderately wet
- 30 Pits
- 31 Pam Beach gravelly sand, 0 to 8% slopes
- 32 Narcossee, shell substratum-Welaka complex, 0 to 5% slopes
- 33 Beaches
- 34 Cocoa-Bulow complex, 0 to 5% slopes
- 35 Quartzipsamments, dredged
- 36 Bimini sand
- 37 Tusawilla fine sand
- 38 Paola fine sand, 0 to 8% slopes
- 39 Udarents, smoothed
- 40 Pomona fine sand
- 41 Terra Celia muck, frequently flooded
- 99 Water
- 100 Water of the Atlantic Ocean

Wetlands Map



HAMMOCK PARK

BEING A REPLAT OF HAMMOCK COMMERCIAL PARK (MAP BOOK 37, PAGES 10-11)
SECTION 40, TOWNSHIP 10 SOUTH, RANGE 31 EAST

DEDICATION AND RESERVATION

KNOW ALL MEN BY THESE PRESENTS Dbd SOLUTIONS, LLC (DBA: L15000132241), A FLORIDA CORPORATION LICENSED TO DO BUSINESS IN FLORIDA, OWNER OF LANDS HEREON, BEING IN SECTION 40, TOWNSHIP 10 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, SHOWN HEREON AS HAMMOCK PRESERVE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "A" (PRIVATE ROAD) IS HEREBY DEDICATED TO THE HAMMOCK PARK OWNERS ASSOCIATION, ITS SUCCESSORS AND ASSIGNS, FOR PRIVATE STREET PURPOSES, DRAINAGE AND UTILITY EASEMENT AND OTHER PURPOSES NOT INCONSISTENT WITH THIS RESERVATION, AND IS THE PERPETUAL MAINTENANCE OBLIGATION OF SAID ASSOCIATION, ITS SUCCESSORS AND ASSIGNS, WITHOUT RECOURSE TO FLAGLER COUNTY.

TRACT "B" & "C" ARE HEREBY RESERVED FOR THE HAMMOCK PARK OWNERS ASSOCIATION, AS THE A-1-A SCENIC CORRIDOR BUFFER AS PER ARTICLE 5 FLAGLER LAND DEVELOPMENT CODE.

TRACT "D" IS HEREBY RESERVED FOR THE HAMMOCK PARK OWNERS ASSOCIATION, ITS SUCCESSORS AND ASSIGNS, AS A DRIVEWAY TRACT SERVING ADJUTING LOTS FOR INGRESS, EGRESS, UTILITIES, DRAINAGE, AND OTHER PURPOSES NOT INCONSISTENT WITH THE RESERVATION, AND IS THE PERPETUAL MAINTENANCE OBLIGATION OF SAID ASSOCIATION AND ITS SUCCESSORS.

TRACT "E", AS SHOWN HEREON, IS HEREBY RESERVED FOR THE HAMMOCK PARK OWNERS ASSOCIATION, ITS SUCCESSORS AND ASSIGNS, FOR STORM WATER MANAGEMENT AND DRAINAGE PURPOSES AND IS THE PERPETUAL MAINTENANCE-OBLIGATION OF SAID ASSOCIATION, ITS SUCCESSORS AND ASSIGNS, WITHOUT RECOURSE TO FLAGLER COUNTY.

THE DRAINAGE EASEMENTS AS SHOWN HEREON ARE HEREBY DEDICATED IN PERPETUITY FOR DRAINAGE PURPOSES. THE MAINTENANCE OF ALL DRAINAGE FACILITIES LOCATED THEREON SHALL BE THE PERPETUAL MAINTENANCE OBLIGATION OF THE HAMMOCK PARK OWNERS ASSOCIATION, ITS SUCCESSORS AND ASSIGNS, WITHOUT RECOURSE TO FLAGLER COUNTY. FLAGLER COUNTY SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO MAINTAIN ANY PORTION OF THE DRAINAGE SYSTEM ENCOMPASSED BY THIS PLAT WHICH IS ASSOCIATED WITH THE DRAINAGE OF PUBLIC STREETS, INCLUDING THE RIGHT TO UTILIZE FOR PROPER PURPOSES ANY AND ALL DRAINAGE, LAKE MAINTENANCE, AND LAKE MAINTENANCE ACCESS EASEMENTS ASSOCIATED WITH SAID DRAINAGE SYSTEM.

THE UTILITY EASEMENTS AS SHOWN HEREON ARE HEREBY DEDICATED IN PERPETUITY FOR THE CONSTRUCTION AND MAINTENANCE OF UTILITY FACILITIES, INCLUDING GAS, TELEVISION SYSTEMS, THE INSTALLATION OF CABLE TELEVISION SYSTEMS SHALL NOT INTERFERE WITH THE CONSTRUCTION AND MAINTENANCE OF OTHER UTILITIES.

IN WITNESS WHEREOF, THE ABOVE-NAMED OWNERS HAVE CAUSED THESE PRESENTS TO BE SIGNED, THIS _____ DAY OF _____, 2023.

CAPTION

A PART OF SECTION 40, TOWNSHIP 10 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE BEING THE SOUTHEAST CORNER OF SAID SECTION 40, BEAR N19°51'29"W ALONG THE EAST LINE OF SAID SECTION 40, A DISTANCE OF 581.77 FEET TO THE SOUTHEAST CORNER OF THE SUBDIVISION PLAT OF HAMMOCK COMMERCIAL PARK, MAP BOOK 37, PAGES 10-11, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THENCE S89°17'23"W ALONG THE SOUTH LINE OF SAID PLAT OF HAMMOCK COMMERCIAL PARK A DISTANCE OF 333.31 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S89°17'23"W ALONG THE SOUTH LINE OF SAID HAMMOCK COMMERCIAL PARK A DISTANCE OF 635.91 FEET TO THE EASTERLY RIGHT-OF-WAY OF STATE ROAD A-1-A, A 100-FOOT RIGHT-OF-WAY; THENCE N16°45'12"W ALONG SAID EASTERLY RIGHT-OF-WAY A DISTANCE OF 401.12 FEET TO THE NORTHWEST CORNER OF SAID HAMMOCK COMMERCIAL PARK; THENCE N89°17'23"E ALONG THE NORTH LINE OF SAID PLAT OF HAMMOCK COMMERCIAL PARK A DISTANCE OF 946.22 FEET TO THE NORTHEAST CORNER OF SAID PLAT OF HAMMOCK COMMERCIAL PARK; THENCE S19°51'29"E ALONG THE EASTERLY LINE OF SAID PLAT OF HAMMOCK COMMERCIAL PARK A DISTANCE OF 177.57 FEET; THENCE S89°17'23"W A DISTANCE OF 191.83 TO A POINT ON A CURVE, NON-TANGENT, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 51.00 FEET, THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 168°13'04", AN ARC DISTANCE OF 149.73 FEET, A CHORD BEARING OF S5°40'29"W, AND A CHORD DISTANCE OF 101.46 TO A POINT OF REVERSE CURVATURE OF A CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 25.00 FEET.

THE BEGINNING OF A CURVE, TANGENT, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE ALONG SAID CURVE AND SOUTHERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 106°02'35" AN ARC DISTANCE OF 46.27 FEET TO A POINT OF TANGENCY; THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY N89°17'23"E A DISTANCE OF 602.71 FEET; THENCE S16°45'12"E A DISTANCE OF 174.55 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;

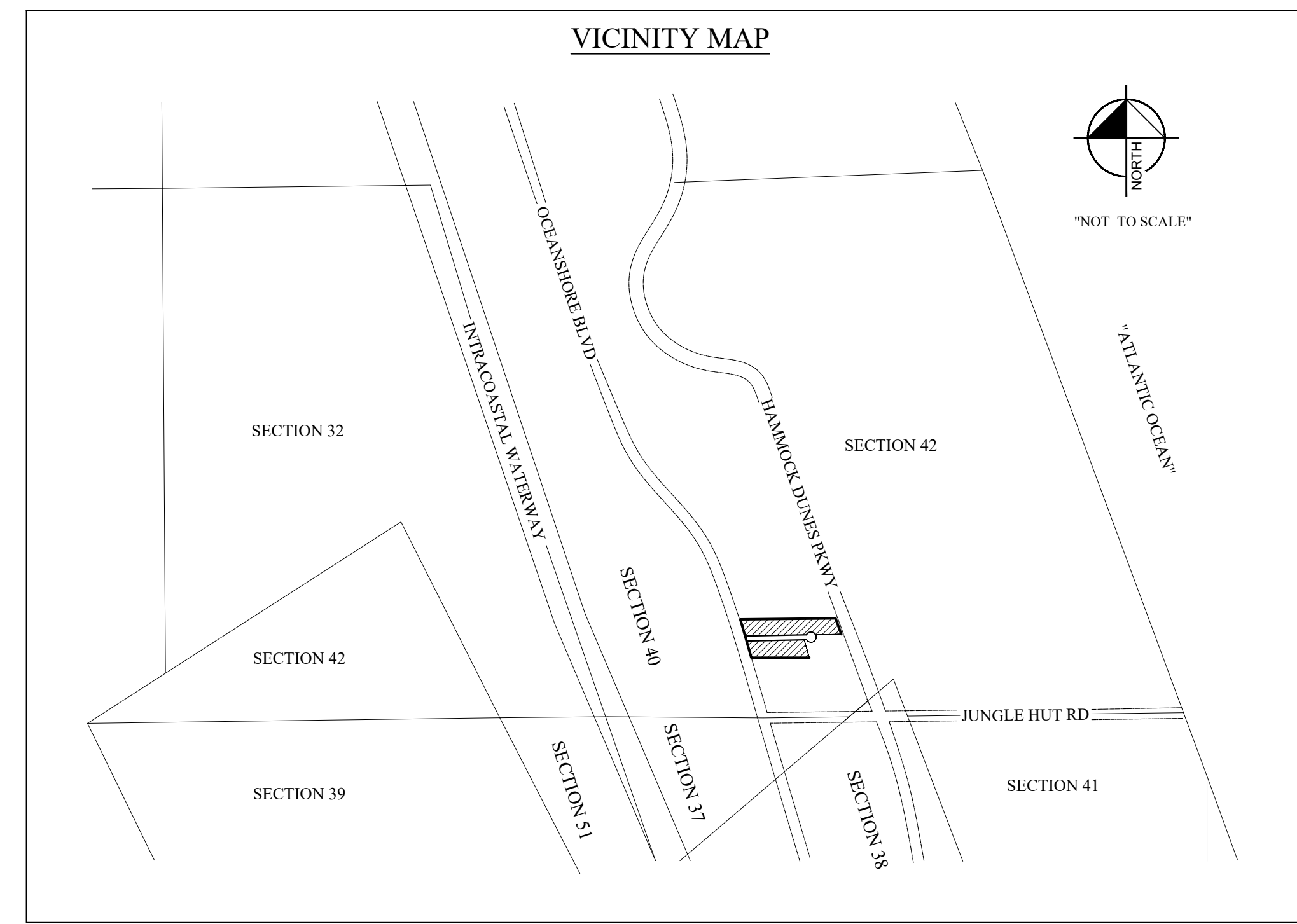
TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

A PART OF SECTION 40, TOWNSHIP 10 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE BEING THE SOUTHEAST CORNER OF SAID SECTION 40, BEAR N19°51'29"W ALONG THE EAST LINE OF SAID SECTION 40 A DISTANCE OF 581.77 FEET TO THE SOUTHEAST CORNER OF THE SUBDIVISION PLAT OF HAMMOCK COMMERCIAL PARK, MAP BOOK 37, PAGES 10-11, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THENCE S89°17'23"W ALONG THE SOUTH LINE OF SAID PLAT OF HAMMOCK COMMERCIAL PARK A DISTANCE OF 969.22 FEET TO THE EASTERLY RIGHT-OF-WAY OF STATE ROAD A-1-A, A 100-FOOT RIGHT-OF-WAY; THENCE N16°45'12"W ALONG SAID EASTERLY RIGHT-OF-WAY A DISTANCE OF 245.40 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING N16°45'12"W ALONG SAID EASTERLY RIGHT-OF-WAY A DISTANCE OF 155.72 FEET TO THE NORTHWEST CORNER OF SAID PLAT OF HAMMOCK COMMERCIAL PARK; THENCE N89°17'23"E ALONG THE NORTH LINE OF SAID PLAT OF HAMMOCK COMMERCIAL PARK A DISTANCE OF 635.91 FEET; THENCE S16°45'12"E A DISTANCE OF 174.55 FEET TO THE NORTHERLY RIGHT-OF-WAY OF HAMMOCK PARK LANE, A 50 FOOT PRIVATE RIGHT-OF-WAY; THENCE S89°17'23"W ALONG SAID NORTHERLY RIGHT-OF-WAY A DISTANCE OF 617.09 FEET TO THE BEGINNING OF A CURVE, TANGENT, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 73°57'25" AN ARC DISTANCE OF 32.27 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

GENERAL NOTES

- TOTAL NUMBER OF LOTS = 19 TOTAL NUMBER OF TRACTS = 5
- TOTAL LINEAR FEET OF STREETS = 713 FEET
- ERROR OF CLOSURE DOES NOT EXCEED 1/10,000 FEET.
- UTILITIES SHALL INCLUDE, BUT NOT BE LIMITED TO SANITARY SEWER, POTABLE WATER, RECLAIMED WATER, STORM DRAINAGE, ELECTRIC, TELEPHONE, CABLE TELEVISION, AND NATURAL GAS.
- NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LAND DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
- DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
- ALL PLATTED UTILITY EASEMENTS SHALL ALSO BE EASEMENTS FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF CABLE TELEVISION SERVICES; PROVIDED, HOWEVER NO SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF CABLE TELEVISION SERVICES SHALL INTERFERE WITH THE FACILITIES AND SERVICES OF AN ELECTRIC, TELEPHONE, GAS, OR OTHER PUBLIC UTILITY. IN THE EVENT A CABLE TELEVISION COMPANY DAMAGES THE FACILITIES OF A PUBLIC UTILITY, IT SHALL BE SOLELY RESPONSIBLE FOR THE DAMAGES. SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AN OPERATION SHALL COMPLY WITH NATIONAL ELECTRIC SAFETY CODE AS ADOPTED BY THE FLORIDA PUBLIC SERVICE COMMISSION.
- THE HAMMOCK PARK SHALL BE RESPONSIBLE FOR THE OPERATION AND MAINTENANCE OF THE DRAINAGE SYSTEM SERVING THIS AREA WITHIN THE BOUNDARIES OF THIS PLAT, AS DEPICTED THE STORM WATER MANAGEMENT PLAN APPROVED FOR THIS DEVELOPMENT BY FLAGLER COUNTY, FLORIDA.
- MONUMENTS SHALL BE SET AT ALL LOT CORNERS UPON COMPLETION OF ALL REQUIRED SUBDIVISION IMPROVEMENTS AT THE DEVELOPERS EXPENSE PER FLORIDA STATUTE 177.091 (9).
- IN THOSE CASES WHERE EASEMENTS OF DIFFERENT TYPES CROSS OR OTHERWISE COINCIDE, DRAINAGE EASEMENTS SHALL HAVE FIRST PRIORITY, UTILITY EASEMENTS SHALL HAVE SECOND PRIORITY, ACCESS EASEMENTS SHALL HAVE THIRD PRIORITY, AND ALL OTHER EASEMENTS SHALL BE SUBORDINATE TO THESE WITH THEIR PRIORITIES BEING OTHERWISE DETERMINED BY THE USE RIGHTS GRANTED.
- BEARING STRUCTURE IS BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE.
- THE SITE IS CURRENTLY CLASSIFIED BY FEMA AS FLOOD ZONE "X". THIS LOCATION IS DETERMINED BY SCALING FROM F.I.R.M MAO NO. 12035001290 AND 12035001330, EFFECTIVE DATE APRIL 24, 2023, APPROXIMATE SCALE IS 1"=500 FEET. DO NOT USE PLAT FOR FLOOD ZONE DETERMINATIONS. FLOOD INSURANCE RATE MAP INFORMATION IS SUBJECT TO CHANGE; USE THE CURRENT APPROVED F.I.R.M FOR COMMUNITY PANEL NUMBER, DATE AND FLOOD ZONE DETERMINATION.



TITLE CERTIFICATION

STATE OF FLORIDA,
COUNTY OF FLAGLER

_____, [A DULY LICENSED ATTORNEY IN THE STATE OF FLORIDA] [A TITLE INSURANCE COMPANY, AS DULY LICENSED IN THE STATE OF FLORIDA] DO HEREBY CERTIFY THAT [I] [WE] HAVE EXAMINED THE TITLE TO THE HERE ON DESCRIBED PROPERTY; THAT [I] [WE] FIND THE TITLE TO THE PROPERTY IS VESTED TO (NAME[S] OF OWNER[S]); THAT THE CURRENT TAXES HAVE BEEN PAID; THAT [ALL MORTGAGES NOT SATISFIED OR RELEASED OF RECORD NOR OTHERWISE TERMINATED BY LAW ARE SHOWN HEREON] [THERE ARE NO MORTGAGES OF RECORD]; AND THAT [THERE ARE NO OTHER ENCUMBRANCES OF RECORD] [THERE ARE ENCUMBRANCES OF RECORD BUT THOSE ENCUMBRANCES DO NOT PROHIBIT THE CREATION OF THE SUBDIVISION DEPICTED BY THIS PLAT].

BY: _____ DATE: _____
(SIGNATURE)

(PRINTED NAME)

MORTGAGEE'S CONSENT

THE UNDERSIGNED HEREBY CERTIFIES THAT IT IS THE HOLDER OF [A] MORTGAGE[S] UPON THE PROPERTY DESCRIBED HEREON AND DOES HEREBY JOIN IN AND CONSENT TO THE DEDICATION OF THE LAND DESCRIBED IN SAID DEDICATION BY THE OWNER THEREOF AND AGREES THAT ITS MORTGAGE[S] WHICH [IS] [ARE] RECORDED IN OFFICIAL RECORD BOOK _____ AT PAGE[S] _____ OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SHALL BE SUBORDINATED TO THE DEDICATION SHOWN HEREON.

DBD SOLUTIONS, LLC,
A FLORIDA CORPORATION

IN WITNESS WHEREOF, THE SAID CORPORATION HAS CAUSED THESE PRESENTS TO BE SIGNED BY ITS [PRESIDENT] [VICE PRESIDENT] AND ITS CORPORATE SEAL TO BE AFFIXED HEREON BY AND WITH THE AUTHORITY OF ITS BOARD OF DIRECTORS THIS _____ DAY OF _____, 2023.

DBD SOLUTIONS, LLC,
A FLORIDA CORPORATION

WITNESS 1: _____ BY: _____ (PRES. OR V. PRES.)
(PRINTED NAME) (PRINTED NAME)

WITNESS 2: _____
(PRINTED NAME) (PRINTED TITLE)

STATE OF: _____ (DATED)

COUNTY OF: _____

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME BY MEANS OF PHYSICAL PRESENCE OR ONLINE NOTARIZATION THIS _____ DAY OF _____, 2023, BY _____ AS _____ OF DBD SOLUTIONS, LLC.

NOTARY OF PUBLIC,
STATE OF _____

BY: _____

PRINT NAME: _____

COMMISSION NO. _____

MY COMMISSION EXPIRES, _____

PERSONALLY KNOWN _____ OR PRODUCED IDENTIFICATION _____ TYPE OF IDENTIFICATION _____

DEVELOPER

DBD SOLUTIONS, LLC, BY AND THROUGH ITS AUTHORIZED REPRESENTATIVE HAS CAUSED THESE PRESENTS TO BE SIGNED IN ITS CAPACITY AND WITH ITS AUTHORITY, AS AUTHORIZED REPRESENTATIVE OF THE COMPANY, AS ESTABLISHED IN WRITTEN ACTION OF THE COMPANY, DATED THIS _____ DAY OF _____, 2023.

WITNESSES:

WITNESS 1 _____ DBD SOLUTIONS, LLC
DBA: L15000132241
200 OCEAN CREST DRIVE
SUITE 509
PALM COAST, FL 32164

(PRINTED NAME)

WITNESS 2 _____

(PRINTED NAME)

STATE OF FLORIDA
COUNTY OF FLAGLER

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME AND BY MEANS PHYSICAL PRESENCE OR ONLINE NOTARIZATION THIS _____ DAY OF _____, 2023, BY AND THROUGH THE AUTHORIZED REPRESENTATIVE OF DBD SOLUTIONS, LLC.

NOTARY PUBLIC, STATE OF FLORIDA

By: _____ Date: _____
(signature)

(printed name)

COMMISSION NO.: _____

MY COMMISSION EXPIRES: _____

PERSONALLY KNOWN _____ OR PRODUCED IDENTIFICATION _____ TYPE OF IDENTIFICATION _____

CORPORATION

DBD SOLUTIONS, LLC
DBA: L15000132241
200 OCEAN CREST DRIVE
SUITE 509
PALM COAST, FL 32164

OWNERS

HAMMOCK PARK
KRISTEN GREGORY, OWNER
LEE HEFFERNAN, OWNER
JIM DAVIS, CONTRACTOR

CIVIL ENGINEER / SURVEYORS

STEPHENSON WILCOX AND ASSOCIATES
2729 E. MOODY BLVD #400
BUNNELL, FL 32110
PHONE: (386) 437-2363
CONTACT: DAN WILCOX P.E. 57633 PSM: 5749
EMAIL: INFO.SWA@GMAIL.COM

CERTIFICATE OF APPROVAL BY COUNTY COMMISSION OF FLAGLER COUNTY, FLORIDA

THIS IS TO CERTIFY, THAT ON THE _____ DAY OF _____, 2023, THE FOREGOING PLAT WAS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA.

By: _____
CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

ATTEST:
CLERK AND EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS

CERTIFICATE OF CLERK

I HEREBY CERTIFY THE FOREGOING PLAT WAS FILED FOR RECORD ON THE _____ DAY OF _____, 2023.

By: _____
CLERK AND EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS
FLAGLER COUNTY, FLORIDA

CERTIFICATE OF APPROVAL

THIS IS TO CERTIFY THAT ON THE _____ DAY OF _____, 2023, THIS PLAT WAS APPROVED.

By: _____
COUNTY ATTORNEY
REVISION NO. 1, OCT. 28, 2003 (FORM C-13)
PAGE 1 OF 1

REVIEWING SURVEYOR'S CERTIFICATION

"I HEREBY CERTIFY, THAT THE UNDERSIGNED, IS A LICENSED PROFESSIONAL SURVEYOR AND MAPPER AND IS EITHER EMPLOYED OR UNDER CONTRACT THE FLAGLER COUNTY. I ALSO CERTIFY THAT I AM NOT REPRESENTING THE OWNER OR THE OWNERS OF RECORD AND HAVE REVIEWED THIS PLAT AND FOUND IT TO COMPLY WITH THE REQUIREMENTS OF CHAPTER 177 FLORIDA STATUTES AND FLAGLER COUNTY PLATTING REGULATIONS."

By: _____ (signature)

(printed name)

FLORIDA PROFESSIONAL SURVEYOR AND MAPPER CERTIFICATION NO. _____

SURVEYOR'S CERTIFICATE

"THIS IS TO CERTIFY THAT THE PLAT SHOWN HEREON IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY MADE UNDER MY RESPONSIBLE DIRECTION AND SUPERVISION; THAT SAID SURVEY IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT PERMANENT REFERENCE MONUMENTS ("P.R.M.S") HAVE BEEN PLACED AS REQUIRED BY LAW AND THAT PERMANENT CONTROL POINTS ("P.C.P.S") WILL BE SET UNDER THE GUARANTEES POSTED WITH THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS FOR THE REQUIRED IMPROVEMENTS; AND, FURTHER, THAT THE SURVEY DATA COMPLIES WITH ALL THE REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES, AS AMENDED, AND THE ORDINANCES OF FLAGLER COUNTY, FLORIDA.

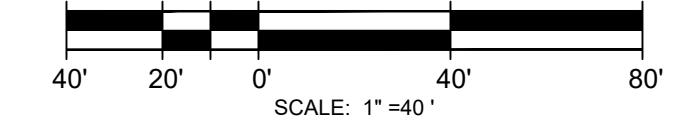
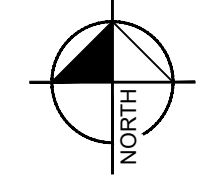
By: _____ (SIGNATURE)

(PRINTED NAME), P.L.S.

(SEAL)
FLORIDA PROFESSIONAL SURVEYOR AND MAPPER CERTIFICATE NO. _____

HAMMOCK PARK

BEING A REPLAT OF HAMMOCK COMMERCIAL PARK (MAP BOOK 37, PAGES 10-11)
SECTION 40, TOWNSHIP 10 SOUTH, RANGE 31 EAST



- LEGEND:**
- IR 1/2" IRON ROD
 - N/D NAIL AND DISK
 - C.M. CONCRETE MONUMENT
 - S.F. SQUARE FOOT
 - R/W RIGHT-OF-WAY
 - FND FOUND
 - PLS PROFESSIONAL LAND SURVEYOR
 - LB LICENSED BUSINESS
 - LS LICENSED SURVEYOR

LABEL	CENTRAL ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD DISTANCE
C1	168°13'04"	51.00'	149.73'	S54°02'29"W	101.46'
C2	48°51'38"	25.00'	21.32'	N66°16'48"W	20.68'
C3	101°32'13"	25.00'	44.30'	N34°00'55"E	38.73'
C4	4°30'22"	25.00'	1.97'	S87°02'12"E	1.97'
C5	73°57'25"	25.00'	32.27'	S53°43'55"E	30.08'
C6	48°51'38"	25.00'	21.32'	N64°51'34"E	20.68'
C7	109°30'11"	51.00'	97.47'	S84°49'09"E	83.30'

swa STEPHENSON, WILCOX & ASSOCIATES, INC. (CA#27726 / LB#7672)

CIVIL ENGINEERS • LAND SURVEYORS • CONSULTANTS • PLANNERS

2729 E. MOODY BLVD., STE. 400, P.O. BOX 186 BUNNELL, FL 32110
PHONE: (386) 437-2363 FAX: (386) 437-0030 EMAIL: INFO.SWA@GMAIL.COM



APPLICATION FOR PRELIMINARY PLAT

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

Application/Project #: 3378 / 2023060068

PROPERTY OWNER(S)	Name(s):	DbD SOLUTIONS, LLC		
	Mailing Address:	200 OCEAN CREST DRIVE, SUITE 509		
	City: PALM COAST	State: FL	Zip: 32164	
	Email: jldcca@aol.com	Telephone #	386.295.0048	Fax #

APPLICANT/AGENT	Name(s):	STEPHENSON WILCOX & ASSOCIATES		
	Mailing Address:	2729 E MOODY BLVD, #400		
	City: BUNNELL	State: FL	Zip: 32110	
	Email: surveying.swa@gmail.com	Telephone #	386.437.2363	Fax #

SUBJECT PROPERTY	SITE LOCATION (<i>street address</i>):	HAMMOCK PARK LANE, PALM COAST, FL 32137
	LEGAL DESCRIPTION: (<i>briefly describe, do not use "see attached"</i>)	MB:37, PG:10-11
	Parcel # (<i>tax ID #</i>):	40-10-31-3280-00000-0010, 0020, 00A0, 0030, 0050
	Parcel Size:	7.02 ACRES
	Number of Miles of New Road(s):	0
	Current Zoning Classification:	RESIDENTIAL/ COMMERCIAL
	Current Future Land Use Designation:	MIXED USE: LOW INTENSITY
	Subject to A1A Scenic Corridor IDO?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

PURPOSE OF SUBMISSION / PROJECT DATA:

REPLAT OF HAMMOCK COMMERCIAL PARK TO HAMMOCK PARK

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

06/22/23

 Date

****OFFICIAL USE ONLY****

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

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

BOARD OF COUNTY COMMISSIONERS ACTION: APPROVED []
 *APPROVED WITH CONDITIONS []
 DENIED []

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

Prepared by:
CONNER BOSCH LAW, P.A.
4488 N. Oceanshore Blvd.
Palm Coast, FL 32137

QUIT CLAIM DEED
(WITHOUT OPINION OF TITLE)

THIS QUIT CLAIM DEED made the 7 day of AUGUST, A.D. 2019, by HAMMOCK COMMERCIAL PARK, LLC, an Ohio Limited Liability Company, hereinafter called the first party, to DBD SOLUTIONS, LLC, a Florida Limited Liability Company, whose address is 200 Oceancrest Dr., #509, Palm Coast, FL 32137, hereinafter called the second party: GEORGINA

WITNESSETH: That the said first party, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party 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, to wit:

Lots 1, 2, and 3, HAMMOCK COMMERCIAL PARK, according to the map or plat thereof as recorded in Plat Book 37, Page 10, Public Records of Flagler County, Florida.
Parcel Identification Nos. 40-10-31-3280-00000-0010; 40-10-31-3280-00000-0020; and 40-10-31-3280-00000-0030.

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

FIRST PARTY warrants this is not homestead property.

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

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

Signed, sealed and delivered in our presence:

[Signature]
Witness #1
Print Name Here: Carisa Rhynehart

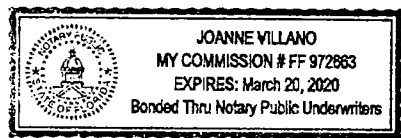
HAMMOCK COMMERCIAL PARK, LLC
By: [Signature]
DBD SOLUTIONS, LLC, as Member/Manager
by KRISTEN GREGORY, as Member/Manager

[Signature]
Witness #2
Print Name Here: JOANNE V. VILLANO

STATE OF FLORIDA
COUNTY OF FLAGLER

SUBSCRIBED, SWORN, AND ACKNOWLEDGED before me this 7 day of AUGUST, 2019, by KRISTEN GREGORY, who is Member/Manager of DBD Solutions, LLC, and who is authorized to sign on behalf of said company, Hammock Commercial Park, LLC, and is personally known to me or has produced _____ as identification and who did (did not) take an oath.

[Signature]
NOTARY PUBLIC
My Commission Expires:



Prepared by:
CONNER BOSCH LAW, P.A.
4488 N. Oceanshore Blvd.
Palm Coast, FL 32137

**QUIT CLAIM DEED
(WITHOUT OPINION OF TITLE)**

THIS QUIT CLAIM DEED made the 7 day of AUGUST, A.D. 2019, by **102 HAMMOCK, LLC**, an Ohio Limited Liability Company, hereinafter called the first party, to **DBD SOLUTIONS, LLC**, a Florida Limited Liability Company, whose address is 200 Oceancrest Dr., #509, Palm Coast, FL 32137, hereinafter called the second party: *Kristen Gregory*

WITNESSETH: That the said first party, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party 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, to wit:

**Lot 5, HAMMOCK COMMERCIAL PARK, according to the map or plat thereof, recorded in Plat Book 37, Page 10, Public Records of Flagler County, Florida.
Parcel No. 40-10-31-3280-00000-0050.**

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

FIRST PARTY warrants this is not homestead property.

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

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

Signed, sealed and delivered in our presence:

Carisa Rhinehart

Witness

Print Name Here: *Carisa Rhinehart*

102 HAMMOCK, LLC

By: *Kristen Gregory*

DBD SOLUTIONS, LLC, as Member/Manager
by KRISTEN GREGORY, as Member/Manager

Joanne Villano

Witness

Print Name Here: *JOANNE VILLANO*

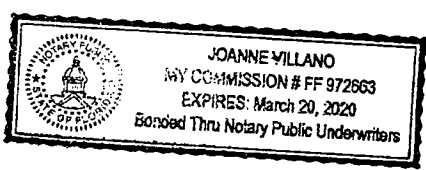
STATE OF FLORIDA
COUNTY OF FLAGLER

SUBSCRIBED, SWORN, AND ACKNOWLEDGED before me this 7th day of AUGUST, 2019, by **KRISTEN GREGORY**, who is Member/Manager of DBD Solutions, LLC, and who is authorized to sign on behalf of said company, 102 Hammock, LLC, and is personally known to me or has produced _____ as identification and who did (did not) take an oath.

Joanne Villano

NOTARY PUBLIC

My Commission Expires:



FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 7 / 19 / 2023

PRELIMINARY PLAT OF HAMMOCK PARK IN THE IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT

APPLICANT: STEPHENSON WILCOX & ASSOCIATES / OWNER: DBD SOLUTIONS, LLC

Distribution date: July 14, 2023

Project #: 2023060068

Application #: 3378

Attached are departmental comments regarding your submittal to Flagler County for the above referenced project. **Any questions regarding any of the comments should be addressed to the department providing the comment.**

Flagler County Building Department	386-313-4002
Flagler County Planning Department	386-313-4009
Flagler County Development Engineering	386-313-4082
Flagler County General Services (Utilities)	386-313-4184
County Attorney	386-313-4005
Flagler County Fire Services	386-313-4258
E-911 GIS Specialist	386-313-4274
Environmental Health Department	386-437-7358
Flagler County School Board	386-586-2386

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

1. No comments at this time

REVIEWING DEPARTMENT: COUNTY ATTORNEY

1. No comments at this time.

REVIEWING DEPARTMENT: COUNTY ENGINEERING

1. No comments at this time.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

Overall Comments

1. The Applicant is to provide technically complete and approved Site Development Plans that comply with the Land Development Code. Existing elevations and proposed grading must be included within the plan. A Plat and associated Plat documents (Engineers Estimate of Cost to Construct, Surety Bonds, and Maintenance Bond) have to be submitted.
2. Provide copies of all other agency permits and approvals necessary to complete this project as well as copies of all supporting documents (applications, calculations, geotechnical reports, etc.)
3. Once all the comments have been resolved, submit three (3) sets of complete signed and sealed Site Development Plans, if more than one copy of the approved plan is desired furnish additional copies.
4. Proof of the payment of all fees and Real Estate Taxes must be provided.
5. An Attorney's Opinion of Title must be furnished prior to Final Plat Approval.
6. Prior to submittal of Final Plat documents, they must be reviewed and approved by a reviewing surveyor under contract with the County. This project will be assigned to Bradshaw Niles & Associates as reviewing surveyor. Prior to the submittal of Final plat documents the applicant should contact the reviewing surveyor regarding the documents required for their review.
7. Contact information is as follows:
Bradshaw Niles & Associates
280 Business Park Cir #410, St. Augustine, FL 32095
904 829-2591
8. Prior to project completion approval and issuance of a Certificate of Occupancy an "AS-BUILT" survey and an Engineer's Certification of Completion must be provided.
9. All provisions of the Flagler County Code must be adhered to. The notes used on the Plat must comply with the Public Works Manual. The Plat must be in the State Plane Coordinate system with ties to two control monuments. The location of driveways must be in accordance with the County's Right of Access Management Ordinance. A separate Site Plan will be required as part of building permit application. Turn lanes and/or

deceleration tapers may be required for site entrances.

Boundary Survey:

10. Provide a Boundary Survey.

Plat:

Cover Sheet:

11. Should the name be a replat of a portion of Hammock Commercial.

12. Add the County Attorney and Growth Management Certificate.

13. The Developers Signatory goes Under the Dedication and Reservations.

14. All the Tracts in the Dedication need to have Letters Associated with them and be noted as such on the Plat.

15. The Public ROW Tract needs to have language included with respect to the sidewalk.

16. The title work will need to be provided to ensure that the Items referenced in the General Notes are consistent.

Sheet 2:

17. How can the lift station parcel be excluded from the plat when that is the only means of sanitary sewer available to the parcels. Could Hammock Dunes just be a party to the plat exclusively for the use of the sanitary sewer system.

REVIEWING DEPARTMENT: E-911 STAFF

1. No comments at this time.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

1. No comments or objections providing water and/or wastewater service is not supplied by well and/or onsite septic system.

REVIEWING DEPARTMENT: FIRE INSPECTOR

1. No comments at this time.

REVIEWING DEPARTMENT: FLAGLER COUNTY SCHOOL DISTRICT

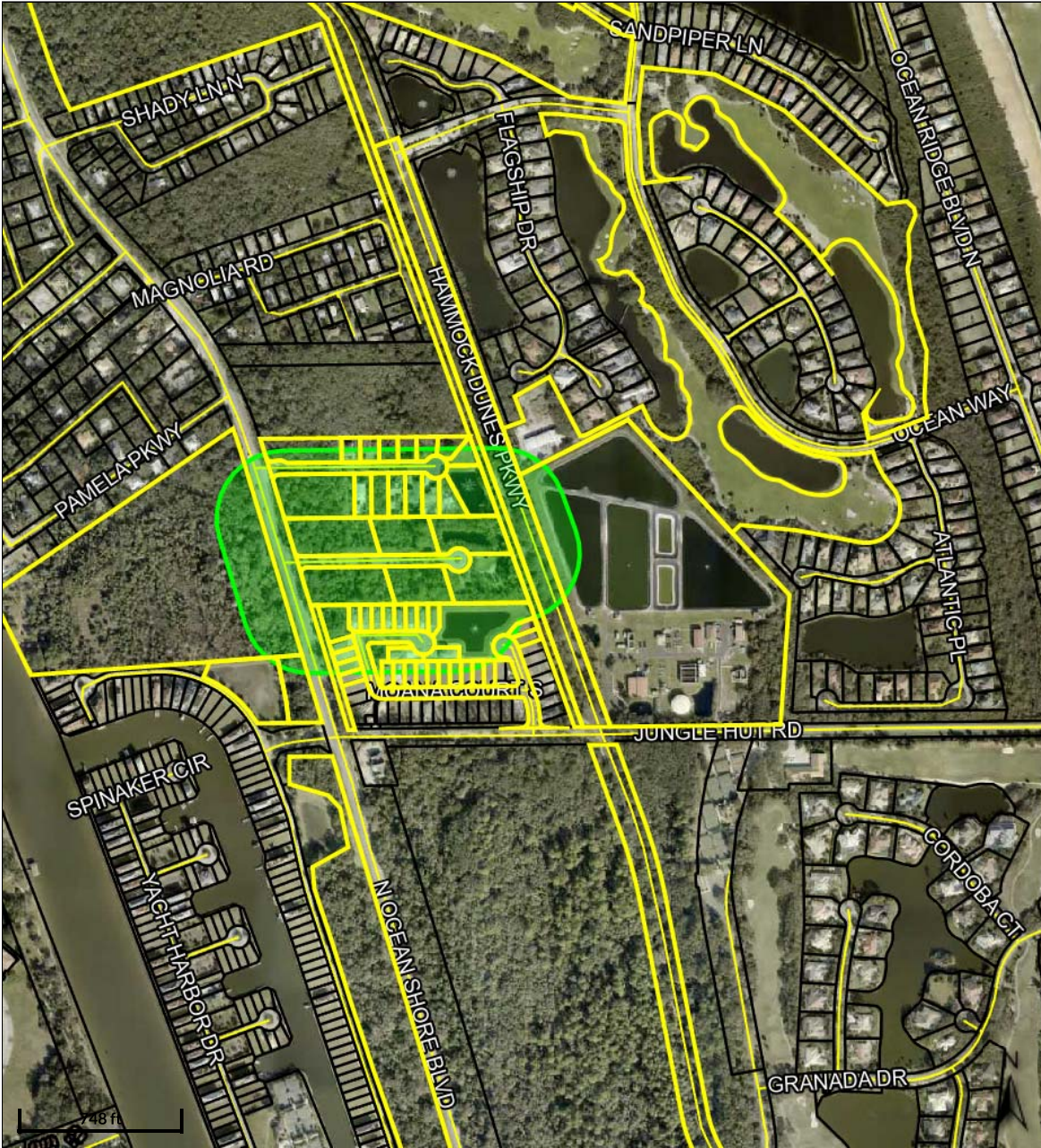
Project # 3378 "Hammock Park" needs to consider a bus stop on the south side of the entrance sign (see existing pull of area- option #1). There is a second option to locate a bus stop at Tract E near the retention pond. Our concern is obviously the safety of students and parents needing transportation to school. Second, we are also concerned (given the growth in student population) that we plan for the efficiency of student bus pickup as well. Let's review this development further to make sure either arrangement would work? The FCSB preference is Option #1. Finally, I would also encourage the developer to visit our website regarding a proportionate share mitigation agreement if they haven't already done so. Again, the forms and associated fees are on the FCSB website with our contact information.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. 1. Provide a signature line for the Developer.

2. Tract D should be revisited. Remove driveway and call it out as access.
3. General Note 8 - What is Hammock Park? It should be the homeowners association.
4. Remove general note 12.
5. Remove title block of Owner and the Corporation.
6. Certificate of Approval for County Attorney, remove last 2 lines.
7. Add to private roadway tract, signage.




App #3378 - Preliminary Plat



Overview



Legend

-  Parcels
-  Roads
-  Streams and Rivers

Date created: 7/18/2023
Last Data Uploaded: 7/18/2023 8:32:53 AM

Developed by 

App #3378
Preliminary Plat
Hammock Park

ParcelId	OwnerName	OwnerAddress1	OwnerAddress2	OwnerCityStZip
04-11-31-2984-00000-00B5	COUNTY OF FLAGLER	%BOARD OF COUNTY COMMISSIONERS	1769 E MOODY BLVD BLDG 2 SUITE 302	BUNNELL, FL 32110
04-11-31-2984-00000-00C1	COUNTY OF FLAGLER	%BOARD OF COUNTY COMMISSIONERS	1769 E MOODY BLVD BLDG 2 SUITE 302	BUNNELL, FL 32110
04-11-31-2984-00020-0000	DUNES COMMUNITY DEVELOPMENT DISTRICT		5000 PALM COAST PKWY	PALM COAST, FL 32137
04-11-31-2984-00GCO-0000	HAMMOCK BEACH ACQUISITION GROUP LLC		5600 MARINER STREET SUITE 200	TAMPA, FL 33609
04-11-31-3019-00000-00A0	HARBOR VILLAGE MARINA PROPERTY OWNERS ASSOC		8390 CHAMPIONS GATE BLVD STE 304	CHAMPIONS GATE, FL 33896
04-11-31-4900-00000-00F1	DUNES COMMUNITY DEVELOPMENT DISTRICT		101 JUNGLE HUT RD	PALM COAST, FL 32137
07-11-31-7085-00170-0000	SCHOOL BOARD OF FLAGLER COUNTY		PO BOX 755	BUNNELL, FL 32110
40-10-31-0390-00000-00B0	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-00D0	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-00H0	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-00J0	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-00L0	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0170	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0180	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0190	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0200	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0210	PISANO JOHN DAVID & EMILY GABBARD H&W		71 MOANA COURT NORTH	PALM COAST, FL 32137
40-10-31-0390-00000-0220	WISSINGER STEVEN TODD & ZULEICA FISTAROL H&W		73 MOANA COURT NORTH	PALM COAST, FL 32137
40-10-31-0390-00000-0230	ROBERTS DAVID BRIAN & JENNIFER JEAN AMC		5 MOANA COURT NORTH	PALM COAST, FL 32137
40-10-31-0390-00000-0240	STARK JEFFREY & JUNE TRUSTEES		PO BOX 778297	HENDERSON, NV 89077
40-10-31-0390-00000-0250	BOETTGER CARA MARIE & STEPHEN FRANK BOETTGER JR H&W		79 MOANA COURT NORTH	PALM COAST, FL 32137
40-10-31-0390-00000-0260	PHELPS ERIN JERRY & MICHELLE DELISLE H&W		81 MOANA COURT	PALM COAST, FL 32137
40-10-31-0390-00000-0270	SCHILLER PHILIP & CLAUDIA MANTOVANI H&W	& JUJILA MANTOVANI SCHILLER JTWR05	281 YACHT HARBOR DR	PALM COAST, FL 32137
40-10-31-0390-00000-0280	GEISLER KURT DOUGLAS & LINDA LEE AMC		85 MOANA COURT NORTH	PALM COAST, FL 32137
40-10-31-0390-00000-0290	MORAIS WANDER ROCHA & AUDREY CRISTHIANI BACCAGLINI H&W		84 MOANA CT N	PALM COAST, FL 32137
40-10-31-0390-00000-0300	MEADOR DAVID & GIOVANNA SCALERA JTWR05		80 MOANA CT N	PALM COAST, FL 32137
40-10-31-0390-00000-0310	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0320	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0410	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0420	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0430	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0440	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0450	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0460	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0470	RICHMOND AMERICAN HOMES OF FLORIDA LP		10255 FORTUNE PARKWAY SUITE 150	JACKSONVILLE, FL 32256
40-10-31-0390-00000-0480	FAUCHER VERONICA NICHOLE & NOLAN LOUIS AMC		46 MOANA COURT SOUTH	PALM COAST, FL 32137
40-10-31-0390-00000-0490	WOJCIECHOWSKI DANIEL JAMES & KIMBERLY AMC		48 MOANA COURT SOUTH	PALM COAST, FL 32137
40-10-31-0390-00000-0500	PEKARSKY ALINA		84 RIVER TRAIL DR	PALM COAST, FL 32137
40-10-31-1085-00000-0010	ALT HOMES LLC		39 AUDUBON LANE	FLAGLER BEACH, FL 32136
40-10-31-1085-00000-0020	DONLAN MARK J & DEBRA L H&W		11 CINNAMON GROVE LANE	PALM COAST, FL 32137
40-10-31-1085-00000-0030	DONLAN MARK J & DEBRA L H&W		11 CINNAMON GROVE LANE	PALM COAST, FL 32137
40-10-31-1085-00000-0040	DAVIS JIMMY LEE & MEREDITH MARTIN H&W		12 CINNAMON GROVE LANE	PALM COAST, FL 32137
40-10-31-1085-00000-0050	BABBITT LAWRENCE J & SHERRY H TRUSTEES		10 SPANISH MOSS COURT	PALM COAST, FL 32137
40-10-31-1085-00000-0060	MINCKIEWICZ MATTHEW G		30360 TORRY AVE	FLAT ROCK, MI 48134
40-10-31-1085-00000-0070	BUCKLEY NANCY L TRUSTEE		17324 HADLOW PLACE	FORT MYERS, FL 33967
40-10-31-1085-00000-0080	STEELE GREGG M & SHARON R TRUSTEES		32 CINNAMON GROVE LANE	PALM COAST, FL 32137
40-10-31-1085-00000-0090	COURT LARRY E		28 CINNAMON GROVE LN	PALM COAST, FL 32137
40-10-31-1085-00000-00A0	CINNAMON GROVE VILLAGE	PROPERTY AND HOME OWNERS ASSOCIATION INC	4995 N OCEANSHORE BLVD	PALM COAST, FL 32137
40-10-31-1085-00000-00B0	ABEL AARON C & CINNAMON GROVE LLC		4995 N OCEANSHORE BLVD	PALM COAST, FL 32137
40-10-31-1085-00000-00C0	CINNAMON GROVE VILLAGE	PROPERTY AND HOME OWNERS ASSOCIATION INC	4995 N OCEANSHORE BLVD	PALM COAST, FL 32137
40-10-31-1085-00000-0100	BLANKENSHIP BRYAN 7 APRIL MARIE H&W		24 CINNAMON GROVE LANE	PALM COAST, FL 32137
40-10-31-1085-00000-0110	RUTTER TABITHA JANE		20 CINNAMON GROVE LANE	PALM COAST, FL 32137
40-10-31-1085-00000-0120	HULBERT HOMES INC		P O BOX 6254	LAKELAND, FL 33807
40-10-31-1085-00000-0130	DAVIS JIMMY LEE & MEREDITH MARTIN DAVIS TRUSTEES		12 CINNAMON GROVE LANE	PALM COAST, FL 32137
40-10-31-1085-00000-0140	GIMME SHELTER LLC		13 CAPRI COURT	PALM COAST, FL 32137
40-10-31-3280-00000-0010	DBD SOLUTIONS LLC		200 OCEANCREST DR #509	PALM COAST, FL 32137
40-10-31-3280-00000-0020	DBD SOLUTIONS LLC		200 OCEANCREST DR #509	PALM COAST, FL 32137
40-10-31-3280-00000-0030	DBD SOLUTIONS LLC		200 OCEANCREST DR #509	PALM COAST, FL 32137
40-10-31-3280-00000-0040	DUNES COMMUNITY DEVELOPMENT	DISTRICT	101 JUNGLE HUT RD	PALM COAST, FL 32137
40-10-31-3280-00000-0050	DBD SOLUTIONS LLC		200 OCEANCREST DR #509	PALM COAST, FL 32137
40-10-31-3280-00000-00A0	HAMMOCK COMMERCIAL PARK OWNERS ASSOCIATION	C/O JOHN P ROBINSON	1 EMERALD LAKE CT	PALM COAST, FL 32137
40-10-31-3280-00000-00B0	HAMMOCK COMMERCIAL PARK OWNERS ASSOCIATION	C/O JOHN P ROBINSON	1 EMERALD LAKE CT	PALM COAST, FL 32137

I hereby affirm mailed notice to each owner on 7 / 24 / 2023 for the PDB meeting on 8/8 / 2023 at 6:00 pm and BCC meeting on 9/18/2023 at 5:30 pm.


Gina Lemmon, Development Review Planner III

Growth Management Department
Planning & Development
1769 E. Moody Blvd, Bldg. 2
Bunnell, FL 32110



www.flaglercounty.org

Phone: (386)313-4009

Fax: (386)313-4109

July 24, 2023

COUNTY OF FLAGLER
%BOARD OF COUNTY COMMISSIONERS
1769 E MOODY BLVD BLDG 2 SUITE 302
BUNNELL, FL 32110

Re: Application #3378 – Preliminary Plat in a PUD (Planned Unit Development) - Parcel Numbers: 40-10-31-3280-00000-0010; 0020; 00A0; 0030 and 0050

Dear Property Owner:

As an owner of property within 300' of the property referenced herein, Flagler County Planning Department in accordance with Section 2.07.00 of the Flagler County Land Development Code, advises you that:

A request by Stephen Wilcox & Associates on behalf of owner DBD Solutions, LLC for a Preliminary Plat in a PUD (Planned Unit Development) District on approximately 7.02 acres for a proposed 19 lot single-family detached subdivision. The subdivision plat is for Hammock Park.

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

Planning and Development Board hearing on Tuesday, August 8, 2023 at 6:00 p.m.

The Planning and Development Board recommendation will be presented to the Board of County Commissioners for final decision; the Board of County Commissioners hearing will be held on Monday, September 18, 2023 at 5:30 p.m.

Andy Dance
District 1

Greg Hansen
District 2

David Sullivan
District 3

Leann Pennington
District 4

Donald O'Brien, Jr.
District 5

You are welcome to attend and express your opinion.

Sincerely,

A handwritten signature in cursive script that reads "Gina Lemon".

Gina Lemon
Development Review Planner III

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