

DEMOLITION ORDER APPEAL

2251 S Old Dixie Hwy LLC

January 13, 2025



Flagler County Code of Ordinances (pre-November 4, 2024)

Sec. 8-56. - International Property Maintenance Code.

The 2021 International Property Maintenance Code (IPMC), as subsequently amended, is hereby adopted, together with its Appendix A, Boarding Standard, and any such reference is hereby deemed to refer to the most current IPMC as amended and subsequently adopted by the county.



2021 International Property Maintenance Code

113.1 General.



The *code official* shall order the owner or owner's authorized agent of any *premises* upon which is located any *structure*, which in the *code official's* or *owner's* authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or *occupancy*, and such that it is unreasonable to repair the *structure*, to demolish and remove such *structure*; or if such *structure* is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any *structure* for a period of more than two years, the *code official* shall order the *owner* or owner's authorized agent to demolish and remove such *structure*, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

2021 International Property Maintenance Code

Where there is a premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy:

Scenario One: And the structure is unreasonable to repair

Only Option: Demolish and remove

Scenario Two: And the structure is capable of being made safe by repairs

1. Repair and make safe and sanitary, or
2. Board up and hold for future repair, or
3. Demolish and remove

Scenario Three: And there has been a cessation of normal construction of any structure for a period of more than two years

1. Demolish and remove or
2. Board up until future repair



2024 International Property Maintenance Code

111.1 General. INSIGHTS

When the code official determines any structure is so old, dilapidated or has become so out of repair and is dangerous, unsafe, insanitary and otherwise unfit for human habitation or occupancy the code official can order either of the following:

1. The code official is permitted to authorize the owner or owner's authorized agent to make the structure safe by repairs in order to make the structure safe and sanitary. Where there has been a cessation of construction repairs of any structure for a period of more than 2 years the structure will be ordered demolished and removed.
2. The code official is permitted to order the owner or owner's authorized agent to demolish and remove any such structure.

Flagler County Code of Ordinances (post-November 4, 2024)

Section 8-104. – General. When the Chief Building Official determines any structure is so old, dilapidated or has become so out of repair and is dangerous, unsafe, unsanitary and otherwise unfit for human habitation or occupancy, the Chief Building Official can order either of the following:

- a. The Chief Building Official is permitted to authorize the owner or owner's authorized agent to make the structure safe by repairs in order to make the structure safe and sanitary. Where there has been a cessation of construction repairs of any structure for a period of more than 2 years, the structure will be ordered demolished and removed.
- b. The Chief Building Official is permitted to order the owner or owner's authorized agent to demolish and remove any such structure.



2024 International Property Maintenance Code and Flagler County Code of Ordinances (post-November 4, 2024)

Only scenario: When the code official determines any structure is so old, dilapidated or has become so out of repair and is dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy:

Option 1: Authorize the owner or owner's authorized agent to make the structure safe by repairs in order to make the structure safe and sanitary or

Option 2: Demolish and remove

NEW Demolition Order (August 26, 2024) (Exhibit 1)

ABATEMENT ORDER

The Flagler County Chief Building Official has determined after review that –in accordance with IPMC Section 109.9 and Section 111.1 –the structure is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary, and otherwise unfit for human habitation or occupancy, that the Chief Building Official hereby authorizes the owner or owner's authorized agent to make the structure safe by repairs in order to make the structure safe and sanitary.

CORRECTION ORDER: The structures located on the subject parcel and determined to be unsafe by the Chief Building Official are permitted to be restored to a safe condition. The owner or owner's authorized agent shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

The Chief Building Official, pursuant to authority provided in IPMC Section 109, hereby orders the owner or owner's authorized agent to abate or correct the unsafe conditions according to the attached schedule, which is made a material part hereof.

FAILURE TO COMPLY WITH ABATEMENT ORDER: If the owner of a premises or owner's authorized agent fails to comply with an abatement order within the time prescribed, the Chief Building Official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate in accordance with IPMC Section 107.3.

Option 1

Option 2

Owner Lacks Authenticity and Demonstrated Ability to Refurbish Structure

- Owner originally executed agreement with deadlines that have long since passed
- Substitute timeline provided by architect in September 2021 with a Biketoberfest (October) 2022 opening date, identifying a roughly one-year timeline for completion
- Third timeline provided following first Special Magistrate hearing with an October 28, 2024 date for receiving all permits, allowing almost five months to do so
- Owner did not submit for building permits, and then only partial permits, until the end of December and beginning of January
- Building permit application filed before commercial site development permit application
- Property not currently being maintained

Original Agreement (Exhibit 2)

AGREEMENT

FLAGLER COUNTY (hereinafter referred to as "County") and 2251 S OLD DIXIE HWY LLC (hereinafter referred to as "Company") hereby agree on this 13th day of May, 2021, to the following terms and conditions regarding the property located in Flagler County, 2251 South Old Dixie Highway, P.O. Box 111, Flagler Beach, Florida. Company will correct and/or repair the conditions on the Property, more specifically described below, such that, in the County's sole determination, the public nuisance on the Property no longer exists.

- A. **On or before June 3, 2021, Company will:**
 - i.) Remove all litter and debris from the Property;
 - ii.) Drain or repair and secure the pool; and
 - iii.) Erect a fence on the Property to prevent the access of trespassers to the dilapidated motel site.
 - B. **On or before August 20, 2021, Company will satisfactorily pass an "all rough" inspection to include specifically inspection of:**
 - i.) Electrical rough;
 - ii.) Mechanical rough;
 - iii.) Second rough plumbing; and
 - iii.) Framing.
4. A. In consideration of Company paying the taxes and fines and diligently pursuing and performing the remedial tasks, as described in Sections 2 and 3 above, the County will not schedule the Lawsuit for hearing or, if a hearing is set by the Court, the County will seek a continuance to allow Company time to make the necessary repairs and improvements.
- B. **If Company does not complete the remedial tasks outlined above prior to August 20, 2021, Company shall provide a cash deposit of \$250,000.00 to the Flagler County Clerk of Court as security for the abatement of the public health and Building Code violations which exist on the Property ("Cash Bond"). Upon satisfactory completion of the tasks outlined in Sections 2 or 3**

Previously Provided Schedule (Exhibit 3)



ALBANO DESIGN STUDIOS
DESIGN+CONSTRUCTION

5 Utility Drive - Suite 2D
Palm Coast, FL 32137
Phone: 386-237-0328
Email: jim@albanodesignstudios.com
CBC050078

The Henry Hotel Tentative Timeline of Construction

September 2021 through December 2021 - Architectural Design / Construction Documents

January 2022 - Apply for Phase I permits - Lobby Building / Swimming Pool and deck
- Apply for Phase II permits - Hotel Room Refurbishment

February 2022 - Commence Construction on Phase I

April / May 2022 - Commence Construction on Phase II (30-week lead-time for Roofing)

September 2022 - Certificate of Occupancy - Phase I

October 2022 - Certificate of Occupancy - Phase II

Biketoberfest 2022 - Tentative Grand Opening of all amenities

Note:

We will update the schedule as we proceed through the various stages of design and permitting. It is our goal to fast-track this project based on the availability of construction materials and tradesman.

Demolition Order Schedule (Exhibit 4)





ALANN ENGINEERING GROUP
CONSULTING ENGINEERS SINCE 1989

HENRY HOTEL RENOVATIONS ESTIMATED PROJECT SCHEDULE

Started of Work	02/2024
Request and attend pre-application meeting with FGUA	
Submittal to County for Site Plan Review	02/26/24
County TRC	03/20/24
Revise layout to meet parking, stormwater, etc. and request proposals for soils, environmental, additional surveys	05/2024
Re-Submittal to County for Site Plan Review	05/22/24
County TRC	06/20/24
Receive soils, environmental, add'l surveys (assume 30 days)	06/22/24
Address comments, finalize design	07/26/24
Submittal to FGUA	07/26/24
Submittal to SJRWMD	07/26/24
Re-submittal to County for Site Plan	07/26/24
County TRC	08/16/24
Receive comments from SJRWMD and FGUA	08/26/24
Attend Planning Board	09/10/24
Address comment from SJRWMD and FGUA	09/16/24
Applications to FDEP	09/30/24
Finalize all permits	10/28/24

Permit Plan Reviews Summary Report (Exhibit 5)

 Home						
Plan Reviews for Permit # 2025010055						
Plan Review Report 						
Review Department	Rev #	Status	In Date	Out Date	Due By	Release User
BUILDING DEPARTMENT (386-313-4003)		REJECT	1/7/2025	1/14/2025	2/5/2025	
CENTRAL PERMITTING (386-313-4003)		REJECT	1/7/2025	1/7/2025	2/5/2025	
DEVELOPMENT ENGINEERING (386-313-4082)		REJECT	1/8/2025	1/8/2025	2/6/2025	
ZONING (386-313-4009)		REJECT	1/7/2025	1/8/2025	2/5/2025	
BUILDING DEPARTMENT (386-313-4003)		PENDING				

April 2024 Financial Statement (Exhibit 6)

Costs Spent to Date

The Henry extended stay

Item	Cost
mis contractors	\$ 50,000
Architecture - Jim Albano	\$ 100,000
General Contractor - Tom Seaman	\$ 70,000
Roof	\$ 578,000
Demolitions	\$ 367,450
Foundation reinforcement	\$ 50,000
Signage	\$ 5,000
Fencing	\$ 25,000
Insurance	\$ 97,000
Engineering/MEP	\$ 125,000
Legal	\$ 50,000
Hotel Consulting	\$ 15,000
Design fee	\$ 15,000
Survey	\$ 8,000
Dumpsters	\$ 110,000
lot clearing	\$ 70,000
Construction Management	\$ 15,000
Total Out of Pocket	\$ 1,750,450
Land purchase inc expensess and interest	\$ 940,000
	\$ 2,690,450

\$112,000 (finaled 7.15.2022)

Exploratory = \$75,000 (expired)

Actual = \$24,500 (finaled 9.14.2023)

\$650,000

Network Jan 13, 2025 at 2:08:17 PM EST

Local Jan 13, 2025 at 2:08:17 PM EST

N 29° 24' 14.496", W 81° 9' 36.931"

Caroline St
Flagler County



Network: Jan 13, 2025 at 2:07:10 PM EST

Local: Jan 13, 2025 at 2:07:10 PM EST

N 29° 24' 15.868"; W 81° 9' 37.794"

2251 S Old Dixie Hwy

Flagler County



Network: Jan 13, 2025 at 2:14:57 PM EST
Local: Jan 13, 2025 at 2:14:57 PM EST
N 29° 24' 16.782", W 81° 9' 36.768"
2251 S Old Dixie Hwy
Flagler County



Owner Lacks Finances to Refurbish Structure

- Documentation provided at prior hearing was not executed by bank though assertion made that funding had been obtained
- Motion to Vacate and Dissolve Contempt Order filed asserting owner's inability to furnish either \$250,000 cash bond or \$1,000 per day fine
- Court required financial statements showing assets and liabilities; document filed only provides past liabilities and no assets
- Only disclosed existence of checking account with \$109.07
- Costs to date reported as \$8,200,450 and loan documents only disclose \$2,400,000 in funding; total funding in hand appears to be \$300,000

Defendant's Motion to Vacate (Exhibit 7)

Filing # 210963888 E-Filed 11/14/2024 03:25:35 PM

FLAGLER COUNTY,

Plaintiff,

v.

AJMAL M. ZULALI and ZUBAIR M.
ZULALI and 2251 S OLD DIXIE HWY LLC,

Defendants.

IN THE CIRCUIT COURT OF THE 7th
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NO.: 2021 CA 000109
DIVISION: Christopher A. France

DEFENDANT'S MOTION TO VACATE AND DISSOLVE CONTEMPT ORDER

Defendant, 2251 S OLD DIXIE HWY LLC, ("Defendant"), by and through its undersigned counsel and pursuant to applicable rules, hereby files its *Motion to Vacate and Dissolve Contempt Order*, (the "Motion"), and in support thereof, states as follows:

1. The Court should vacate and dissolve the *Order Finding Civil Contempt* issued on November 1, 2024, as (a) the Defendant complied with the non-monetary terms of said order, (b) the penalty of \$1,000 per day is excessive, and (c) the Defendant lacks ability to pay for the same, which makes the civil contempt order improper for lack of a realistic purge provision.

2. The per diem fine was imposed without evidentiary hearing as to Defendant's ability to furnish the same. To date, Defendant has provided its financial disclosures and supporting documentation evidencing its illiquid position and inability to furnish either the \$250,000 cash bond or the \$1,000 per day fine for failure to do the same.

April 2024 Financial Statement (Exhibit 6)

7. Financial statements as to the entity's assets, liabilities, and owner's equity prepared within the 12 months immediately preceding the service date of this Fact Information Sheet. E-Served via e-mail contemporaneously herewith.

Costs Spent to Date

The Henry extended stay

Construction Management	\$	15,000
Total Out of Pocket	\$	1,750,450
Land purchase inc expensess and interest	\$	940,000
	\$	2,690,450
	\$	1,245,000
Total budget	\$	8,200,450

Loan Documentation (Exhibit 8)

A&S CAPITAL LLC
2999 NE 191ST ST., #808
MIAMI, FL 33180

December 15, 2021

VIA ELECTRONIC MAIL

To: LAW OFFICE OF VALERIA SCHVARTZMAN, P.A.

Re:

Property Address: 2251 S. OLD DIXIE HIGHWAY,
BUNNELL, FL 32110 ("*Property*")

Borrower: 2251 S OLD DIXIE HWY LLC, a Florida limited liability
company ("*Borrower*")

Lender: A&S CAPITAL LLC, a Florida limited liability company
ISAOA/ATIMA ("*Lender*")

Dear Sir/Madam:

Lender has prepared loan documents in connection with a loan in the maximum principal amount of Two Million Four Hundred Thousand and 00/100 Dollars (\$2,400,000.00) to be made to Borrower as evidenced by that certain Note secured by a Mortgage dated **DECEMBER 15, 2021** ("*Note*"). Borrower's repayment of the Note is secured by the Property, as more particularly described in the Legal Description of the Preliminary Report, and in Exhibit "A" of that certain Mortgage, Assignment of Rents and Security Agreement dated **DECEMBER 15, 2021** (the "*Mortgage*").

Checking Account Statement (Exhibit 9)

2. All bank, savings and loan, and other account books and statements for accounts in institutions in which the entity had any legal or equitable interest for the past 3 years. E-served via e-mail on.10.30.24

Checking account at: Chase Bank

Account #: 775139576

Savings account at: None

Account # Not Applicable



JPMorgan Chase Bank, N.A.
P O Box 182051
Columbus, OH 43218 - 2051

August 31, 2024 through September 30, 2024

Account Number: **000000775139576**

CUSTOMER SERVICE INFORMATION

Web site: www.Chase.com
Service Center: **1-877-425-8100**
Para Espanol: **1-888-622-4273**
International Calls: **1-713-262-1679**
We accept operator relay calls

00568820 DRE 802 219 27524 NNNNNNNNNN 1 000000000 64 0000
2251 S OLD DIXIE HWY LLC
12550 BISCAYNE BLVD STE 406
NORTH MIAMI FL 33181-2544

CHECKING SUMMARY

Chase Platinum Business Checking

	INSTANCES	AMOUNT
Beginning Balance		\$109.07
Ending Balance	0	\$109.07

Local: Jan 13, 2025 at 2:14:36 PM EST

N 29° 24' 16.436", W 81° 9' 36.86"

Caroline
Flagler Coun

REQUEST: Uphold Demolition Order because owner does not have demonstrated ability or finances to refurbish structure

OUR SEASONS
HOUSING, INC.
3166-3979



PRIVATE
PROPERTY
NO TRESPASSING

Network: Jan 13, 2025 at 2:07:04 PM EST

Local: Jan 13, 2025 at 2:07:04 PM EST

N 29° 24' 15.868", W 81° 9' 37.794"

2251 S Old Dixie Hwy

Flagler County

ALTERNATIVE REQUEST: If Demolition Order is not upheld, impose a per day fine tied to reasonable timeline



PowerPoint presentation to be submitted as Exhibit 10