



**Flagler County
Board of County Commissioners
Workshop on Bings Landing
(Special Meeting to Follow)**

Monday, January 7, 2019 at 9:00 a.m.

Emergency Operations Center, Building 3, 1769 E. Moody Blvd., Bunnell, FL 32110

Workshop Agenda

1. Call to Order
2. Pledge to the Flag and Moment of Silence
3. Welcome: Flagler County Board Chair
4. Staff Presentation
5. Captain's Bait, Tackle & BBQ Lease Discussion
6. Public Comment
7. Adjournment

While this is a workshop only and no decisions are expected to be made by any of the governmental bodies, if a person decides to appeal any matter that may be discussed for a future proceeding, a record of the workshop may be needed and, for such purposes, the person may need to ensure that a verbatim record of the workshop is made.



Flagler County Board of County Commissioners Special Meeting

Monday, January 7, 2019 Following Workshop

Emergency Operations Center, Building 3, 1769 E. Moody Blvd., Bunnell, FL 32110

Special Meeting Agenda (if deemed necessary)

1. Call to Order
2. Public Comment
3. Request the Board take actions as deemed necessary regarding issues discussed at the workshop this date.
4. Adjournment

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.

Captain's BBQ at Bings Landing

LEASE DISCUSSION

JANUARY 7, 2019 9AM

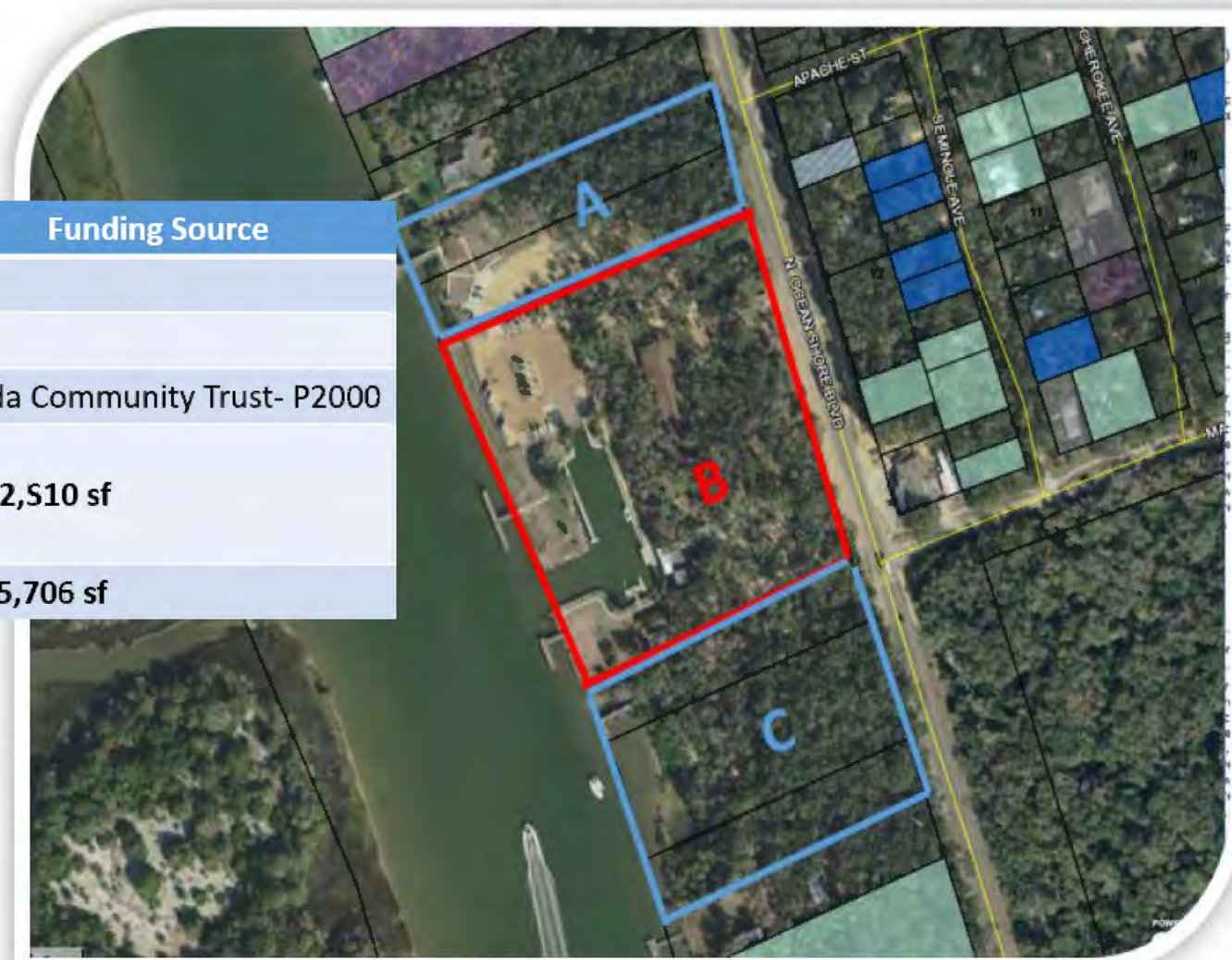
Bings Landing Park Site



Bings Landing Park Site

Site	Location	Year Acquisition	Acres	Funding Source
A	North Parcel	2009	2.690	ESL
B	Main Parcel (Primary)	1989	7.445	ESL
C	South Parcel	2000	4.615	Florida Community Trust- P2000
		Total Park Site	14.75	or 642,510 sf
		Captains BBQ Site	.12	or 5,706 sf

The Captain's BBQ operational foot print site is less than 8/10 of 1 percent of the overall Park site.



Original ESL Bond Resolution Language

qualified electors to finance the cost of the acquisition on environmentally sensitive lands, including but not limited to water recharge areas, and lands for parks and recreation, located in the County of Flagler, Florida.

Such purpose described above shall also include other purposes appurtenant, necessary or incidental thereto.

ESL Manual 2009

Primary Program Objectives

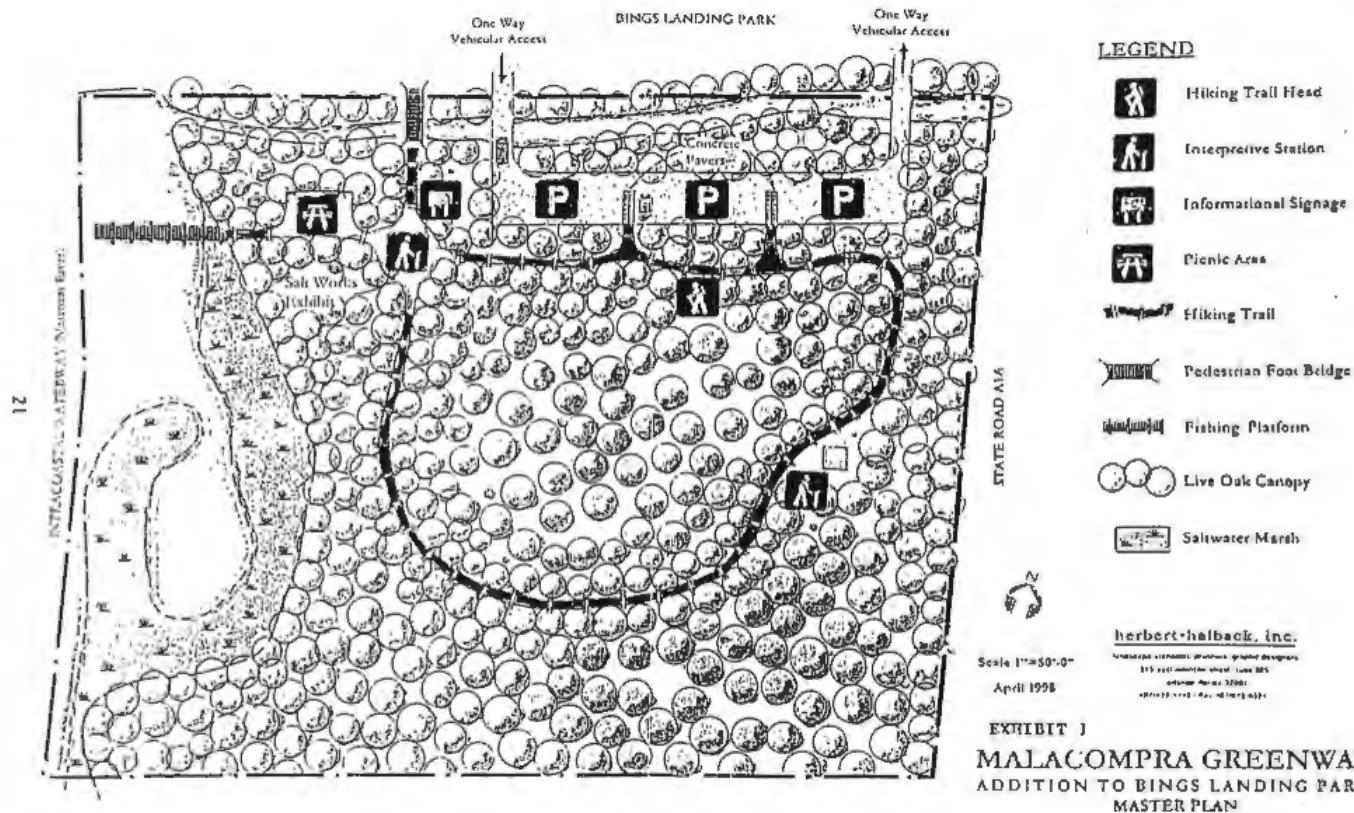
- a) Preserve wildlife habitats and protect the health and diversity of wildlife, especially threatened and endangered species of plants and animals.
- b) Promote improved water quality and protect the Floridan aquifer and preserve water recharge areas.
- c) Preserve rare natural communities and wildlife habitats/ecosystems.
- d) Preserve unique cultural, historic, scenic, and significant geologic features.
- e) Promote economic development through the creation of nature tourism property, infrastructure, and opportunities.***
- f) Promote appropriate public use and enjoyment of acquired lands including public access to water bodies for recreation activities that are consistent with ESL stewardship principles.***

2000 Park Management Plan --- FCT Grant (Bings South Parcel)

Improvements:

- **Picnic Area – 10x20 picnic adjacent to Matanzas River, (4) picnic tables.**
- **Fishing Platform – 6'x60' fishing platform at nw corner of site**
- **Interpretive Signage**
- **Salt Work exhibit – 300sf located at trail intersection.**
- **Information signage at entrance & at salt works exhibit**
- **Trailhead located adjacent to parking area.**
- **Pedestrian footbridge sw corner of existing parking area**
- **Concrete pavers walkway at proposed parking area**
- **6foot crushed shell pathway**
- **2 Bicycle parking stands**
- **21 spaces of parking approximately 2,520 sf**

2000 Park Master Plan --- FCT Grant (Bings South Parcel)



2000 Park Master Plan -- FCT Grant (Bings South Parcel)

2000 Bings Landing (South) Management Plan

6. Parking

Due to the need to provide overflow parking for Bings Landing County Park, 21 spaces will be located on the project site. The affected area is approximately 2,520 square feet. The area will be naturally screened, pervious crushed shell and located on presently disturbed lands to minimize impact on the mature live oaks. The parking area will be located at least twenty-five (25) feet from the wetlands. The existing access road into the property from State Road A1A will be eliminated and re-vegetated. Access to the project site will be through the existing entrance from Bings Landing County Park. The plan for the project is to provide one way looped vehicular access to the new planned parking area. This will physically tie the existing park to the project site.

Updated 2000 Park Master Plan Grant Obligations (2012) South Parcel



Florida Department of Environmental Protection

Majority Stephen Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Kick Scott
Governor

Jennifer Carroll
Lt. Governor

Hersehel T. Vinograd Jr.
Secretary

January 5, 2012

Michael D. Lagassé, Land Manager
Flagler County Administration, Building 2
1769 East Moody Blvd., Suite 309
Bunnell, FL 32110

Subject: Management Plan Revision
Mala Compra Greenway Bings Landing Addition
Management Plan # 99-062-P9A

Dear Mr. Lagassé:

Thank you for submitting your revision to the management plan to Florida Communities Trust (FCT). Florida Communities Trust staff reviewed the proposed modification to the management plan for consistency with the original application, the Grant Award Agreement, and the approved management plan.

We find the proposed change to eliminate the parking from the FCT funded site while retaining the choice to add parking in the future to be consistent with the approved project.

Please incorporate the additions and deletions in your copy of the management plan and we will do the same.

If you have any questions, please feel free to contact Jerry Taber at (850) 245-2683 or email at jerry.taber@dep.state.fl.us.

Sincerely,

Grant Gelhardt
Environmental Administrator

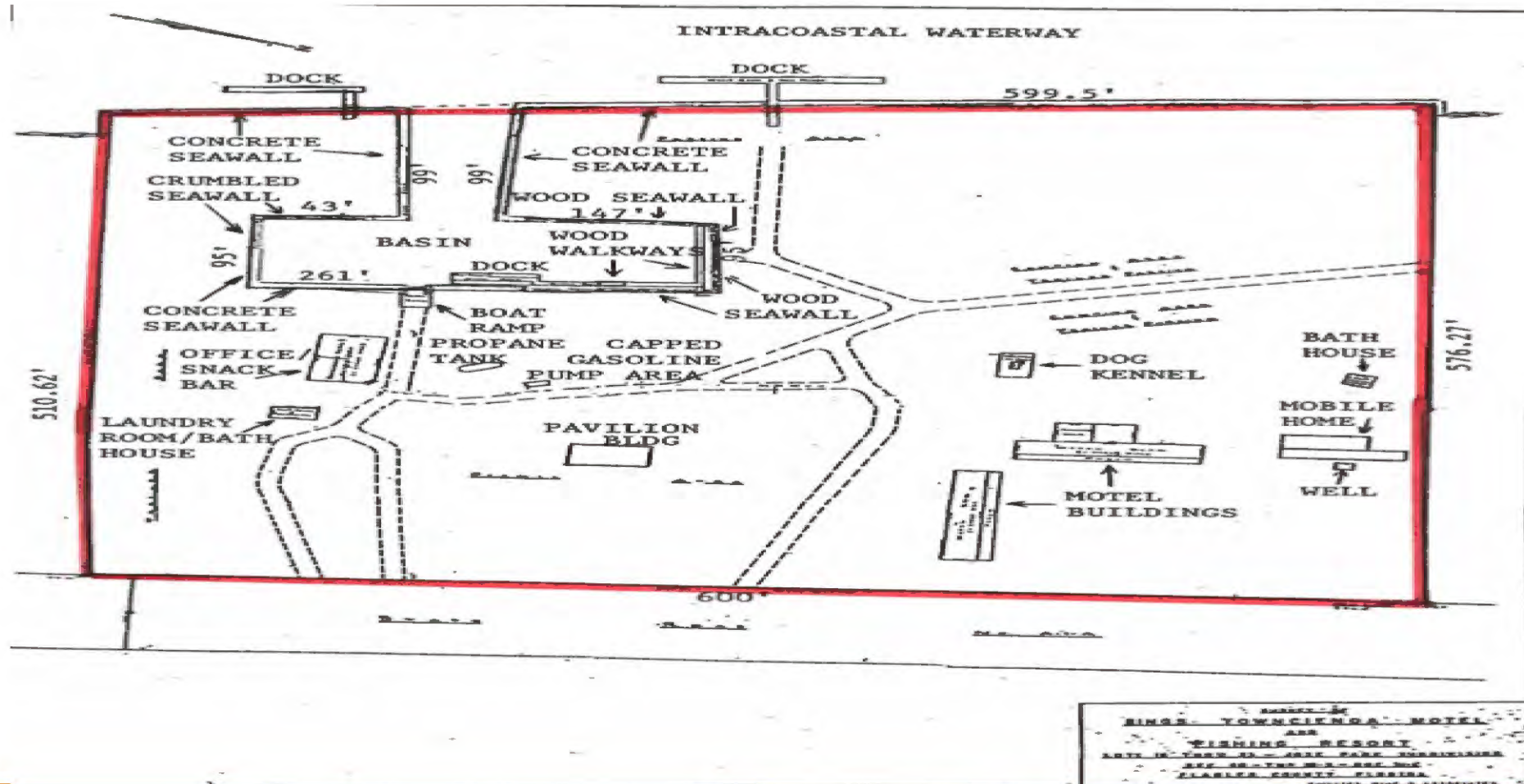
GG/jt

www.dep.state.fl.us

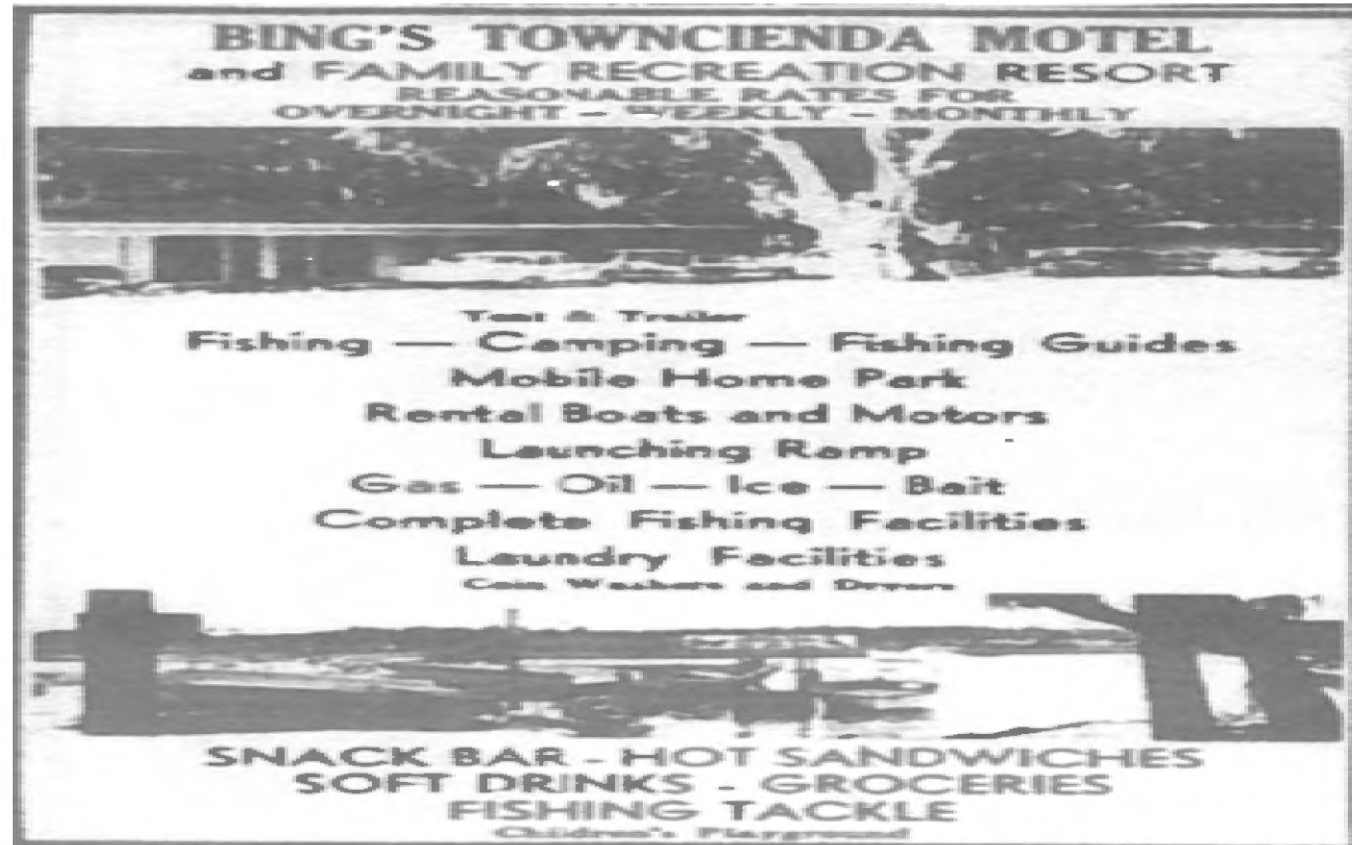
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History of Building Uses and Site Uses



History of Building Uses and Site Uses



History of Building Uses

- ❖ Bar
- ❖ Fish Camp Store
- ❖ Restaurant (now and then)
- ❖ Bait Store
- ❖ Community Center

History of Building

- ❖ Original Construction Date Unknown
- ❖ No value assigned in Acquisition Appraisal due to age and condition
- ❖ Not built to Code – Pre-dates Building Codes
- ❖ Repaired when acquired
- ❖ Consistent Repairs made over time

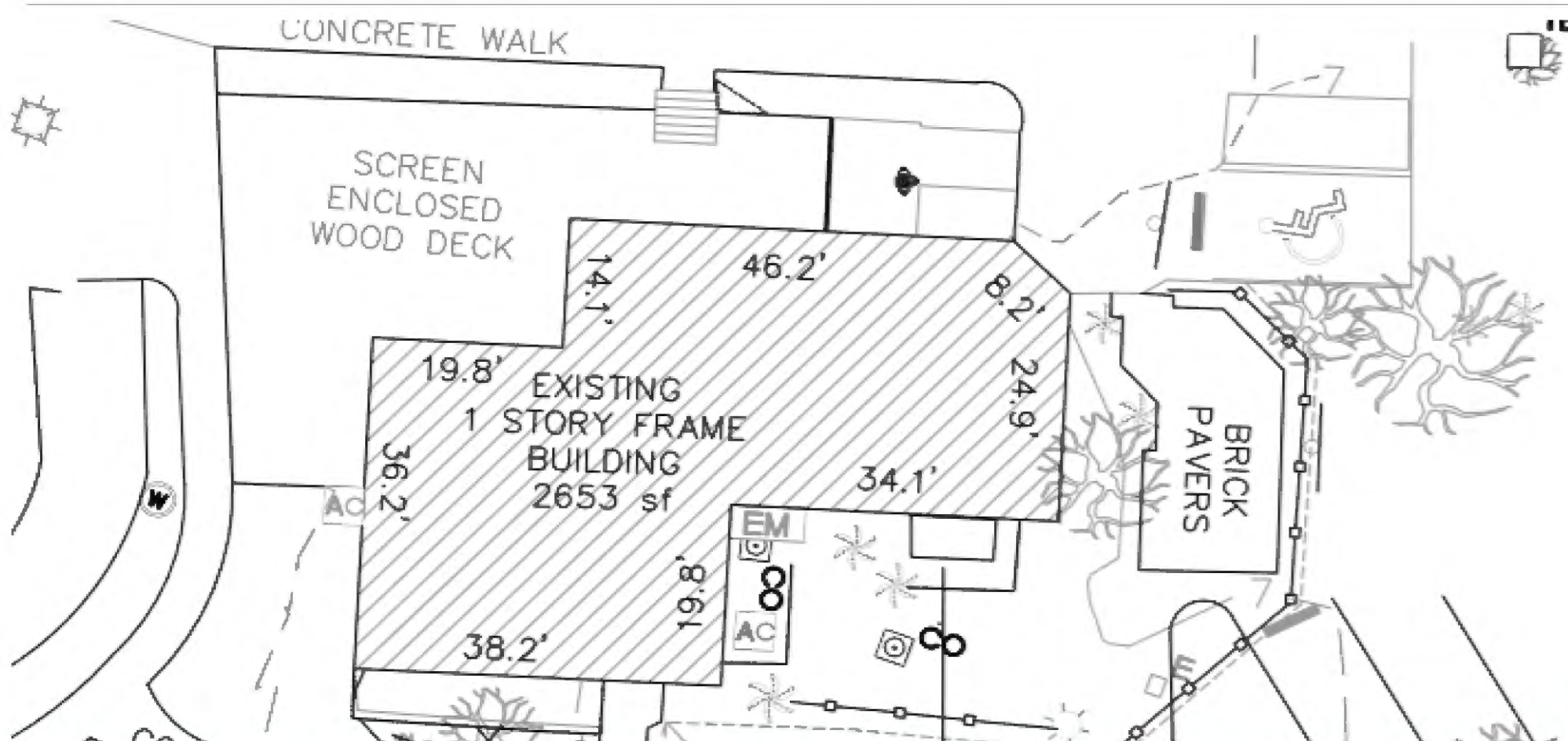
Condition of the Building (Latest Structural Issue – Toilet)



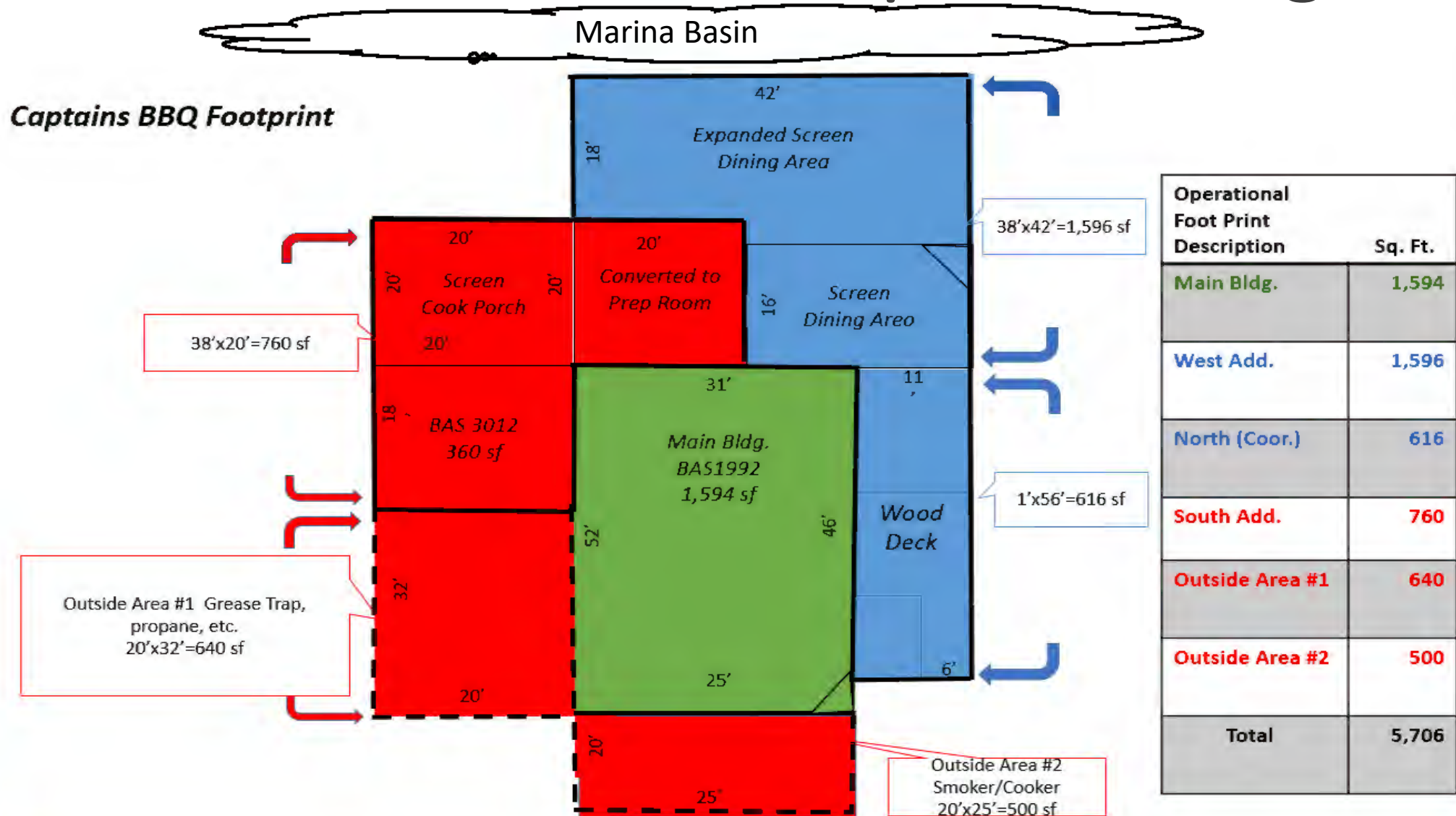
Presentation of
Independent
Structural Building
Analysis by
Universal
Engineering

Captain's BBQ Details

Current Captain's BBQ Square Location (Survey)



Current CAPT BBQ Square Footage



Archeology Issues

- ❖ Planning to Retain Greg Smith, Archeologist
- ❖ Previously Worked on Bings Park Site
- ❖ At County Cost Estimated at \$5K+/-
- ❖ If artifacts are found they will be preserved and could be potentially displayed.
- ❖ Monitoring will occur during construction

Water

- ❖ City of Palm Coast
- ❖ Separately metered now
- ❖ Proposed separate meter
- ❖ Expected Minimal Change in Usage

Septic System (Current)



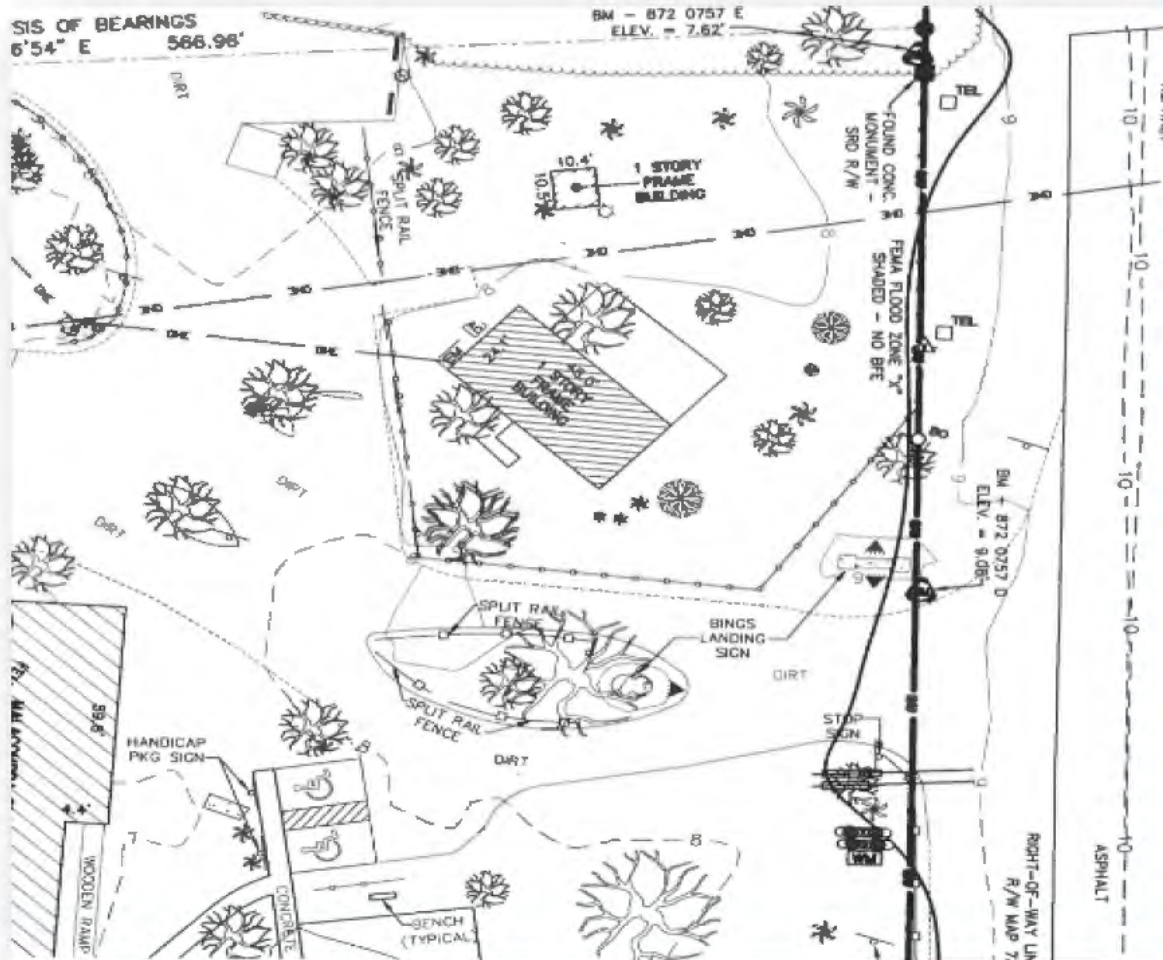
Sewer System (Current)

- ❖ Current System - combined, older, tree issues
- ❖ Sized in 1991
- ❖ 1600 s.f. Drainfield
- ❖ 3,100 Gallon per day flow
 - ❖ 3 Bedroom House -450 Gallons per day
 - ❖ 130 Park Attendee 5 Gallons per day
 - ❖ Single Service Restaurant 80 seats @25 gallons per seat per day.

Sewer System (Future)

- ❖ Proposed Upgrade Regardless
- ❖ 3,750s.f. Drainfield Est. \$ 70,000
- ❖ 7,500s.f. Drainfield Est. \$140,000
- ❖ No Drainfield – Discussing Temporarily Connecting to Hammock Dunes CDD Wastewater System - \$90,000 - Plus on-going monthly bills
- ❖ Tree/Environmental/Savings/Reliability

Septic (Proposed Drainfield)



Solid Waste

- ❖ Captain's BBQ has a dumpster - CPT pays
- ❖ Flagler County has a dumpster – Req'd
- ❖ No known solid waste issues
- ❖ Both dumpsters proposed to be screened
- ❖ Dumpster size/pickups can be increased

Alcohol Beverage

- ❖ Current Beer and Wine
- ❖ Allowed Private Events/Boats
- ❖ Additional seating lowers cost of Alcohol and Beverage permit
- ❖ Alcohol Related Incidents – None
- ❖ Service Restricted to After 5pm M-Th

Parking

- ❖ Belief - There is a parking problem now
- ❖ Goal - To add at least 30 spaces
- ❖ Goal - To minimize tree loss/damage
- ❖ Nothing planned, settled, determined
- ❖ Multiple Solutions - Combination
- ❖ Shell, Construct In-House, Safe
- ❖ Field finalize around trees

Lease Details

Previous Leases

2011	RFP March 12, 2011
2011	Initial Lease Sept. 1, 2011
2015	1st Amendment April 20, 2015
2016	2nd Amendment June 6, 2016

NOTE: RFP Award, Lease, and all Lease Amendments were presented and Approved by the Board of County Commissioners.

NOTE: First and Second Amendment extended lease terms based on additional investment by Captain's BBQ

NOTE: No leases or RFP went to TRC or Scenic A1A, nor were they required to.

Approach to the Lease

- ❖ Existing Lease – Settled Issue/Positive
- ❖ Avoided ongoing structural Issues with Current Structure
- ❖ Desired to avoid shutdown/County Lease Violation
- ❖ Legal - County Attorney's Opinion
- ❖ Shed some liability/maintenance
- ❖ Upgraded Structure/ Additional Investment
- ❖ Waterfront Use/Economic Development
- ❖ Environmental/County Costs/Least Impacts to Park

Major Lease Terms (Former)

- ❖ Lease Term - 8yrs remaining w/mutual option for 5 years more --13 years total
- ❖ Current Rent \$780 month 2018 \$820 -2019
- ❖ Restaurant/Bait --- Other Kayaks/Bikes
- ❖ Space 4,490s.f. /Total Footprint 5,600s.f.+
- ❖ County Building/County Maintained/County Insured.

Major Lease Terms (Former)

Section 2 Use of Lease Premises

- ❖ Outdoor Area- “The Lessee shall also be permitted to have a BBQ cooker, firewood, and related items outdoors and on the Leased Premises, as shown on Exhibit A”
- ❖ Later on in the same section other outside storage is discussed related to Kayaks and Bikes as well as screening of outside areas
- ❖ Onsite Dining “which shall be used to produce and sell carryout food from the building, for consumption on the Leased Premises, elsewhere within the park, or off the park property”

Public Processes on CPT BBQ Relocation

October 17, 2018 - TRC meeting. Public Meeting Mr. Clark attended

October 26, 2018 - Scenic A1A meeting - Letter Dated November 4, 2018 - Approval 7-2

November 13, 2018 – Planning and Development Board - Final approved Site Plan (in accordance with Land Development Code- site plan approval is Planning and Development Board Only). Approval 4-1

November 19, 2018 – Board of County Commissioners Approved Captains BBQ Amended and Restated Lease Agreement. Approval 3-2

November 30, 2018 - Scenic A1A meeting - Letter Dated December 3, 2018 – Rescinding its motion from October 26th meeting Approval. No new recommendation for or against was passed.

December 3, 2018 - Board of County Commissioners – Voted to hold a workshop to discuss the Lease. Resconsidered or Rescinded its November 19th Approval of Captains BBQ Amended and Restated Lease.

Major Lease Terms (New)

- ❖ Lease Term - 21 years w/opt 5 more yrs
- ❖ New Rent \$1,000 month (net \$2,000)
- ❖ Restaurant/Bait --- No Kayaks/Bikes
- ❖ Footprint 5,200 s.f. Reduced (Better Org)
- ❖ County Building/CPT's Maintained/
- ❖ Insurance responsibility Capt's

Other Lease Terms (New)

- ❖ Must Provide 25 New Trees
- ❖ Additional Seats - Up to 50
- ❖ Allows alcohol sales - Currently Beer/Wine
- ❖ Eliminates extra uses - Bikes/Kayaks
- ❖ 30 Additional Parking - County
- ❖ Septic System - County
- ❖ Non-dedicated Boat Parking - County

Monthly Rent

- ❖ Current Rent \$780 Monthly
- ❖ Includes County building maintenance (\$2,000 annually) building insurance (\$1,500 annually), other capital costs roof/hvac \$2,500 annually).
- ❖ **Net Effective Rent = \$280 Monthly**

- ❖ New Rent \$1,000 Monthly
- ❖ Includes no County building maintenance (\$2,000 annually), no County building insurance cost (\$4,000 annually), no county capital costs (\$2,500).
- ❖ **Effective New Effective Rent \$1,700 + Monthly**

Additional Monthly Rent

- ❖ Additionally new capital value of Rent (21 years*12 mon =252 months)

\$ 750,000 / 252 months = \$2,976 or \$3,000 per month

\$1,000,000 / 252 months = \$3,968 or \$4,000 per month

Amortized Value of a Private Investment at today Present Value

Capt's will get a bank loan for improvements -- Interest not included

- ❖ Another example Airport - \$750K- \$1 million - New Building
Ground Lease .25-.30 cents a s.f. (\$1,300-\$1,560)
30 Yr Lease then County owns
Saleable Asset during process – Close to original investment

Potential Building Solutions

6 OPTIONS EXPLORED
MANY POTENTIAL OPTIONS

Option 1 Repair Existing Facility



Option 1 Repair Existing Structure (Positives)

- ❖ No Tree Loss
- ❖ More Political Support (No Change Option)

Option 1 Repair Existing Structure (Negatives)

- ❖ Taxpayer Cost (Unknown 100K+++)
- ❖ Could Trip Building Code Thresholds Triggering Only Option 2
- ❖ Building Closure – Loss of Employees, Customers
- ❖ Legal Liability - (Public Injury Risk)
- ❖ Legal Liability as Landlord – (Indeterminate)
- ❖ Future Issues - Continued Responsibility Legal
- ❖ Future Issues – Maintenance (Ongoing and Capital)
- ❖ Future Issues – Future Rebuild
- ❖ Still Not to Code, More Prone to Disasters

Option 2 Rebuild Existing Facility



Option 2 Replace Existing Structure (Positives)

- ❖ More Political Support (No change option)
- ❖ New Structure up to code

Option 2 Replace Existing Structure (Negatives)

- ❖ More Tree Loss
- ❖ Taxpayer Cost (400K+++)
- ❖ Longer Building Closure – Loss of Employees, Customers
- ❖ Legal Liability as Landlord – (Indeterminate)
- ❖ Future Issues - Continued County Responsibility Legal
- ❖ Future Issues - Continued County Maintenance Responsibility (Ongoing and Capital)

Option 2 Replace Existing Structure (Negatives)

- ❖ More Tree Loss
- ❖ Taxpayer Cost (400K+/-)
- ❖ Building Closure – Longer Period (Loss of Employees, Customers)
- ❖ Legal Liability – (Unknown \$1 Million+/-)
- ❖ Future Issues - Continued Responsibility Legal
- ❖ Future Issues – County Maintenance (Ongoing and Capital).
- ❖ Future Issues – County Cost Insurance
- ❖ Rent not changing

Option 3 New Lease Site/Facility



Option 3 New Lease Structure/Site (Positives)

- ❖ Not at Taxpayer Cost (\$750,000-\$1,000,000+/-)
- ❖ No Building Closure – (Loss of Employees, Customers)
- ❖ Slightly Increased Rent – Larger Net Rent
- ❖ No Legal Liability – (Indeterminate)
- ❖ Future Issues - Less Legal Responsibility
- ❖ Future Issues - Capitan's BBQ Maintenance (Ongoing and Capital)
- ❖ New Structure up to code

Option 3 New Lease Structure/Site (Negatives)

- ❖ Some Tree Loss
- ❖ Less Popular – Considered impact to viewshed
- ❖ Percieved as larger impact - Not Current Location

Option 4 Alternate Lease Site/Facility Pavilion Site



Option 4 New Structure Lease Site (Positives)

- ❖ No or Minimal Tree Loss
- ❖ Less obstructing of view – Off to the side at the end of parking area
- ❖ Believed Less Archeological Issues
- ❖ Less Construction Disruption
- ❖ Not at Taxpayer Cost (\$700,000-\$1,000,000+/-)
- ❖ No Building Closure – (Loss of Employees, Customers)
- ❖ Slightly Increased Rent – Larger Net Rent
- ❖ No Legal Liability – (Indeterminate)
- ❖ Future Issues - Less Legal Responsibility
- ❖ Future Issues – Lessee Maintenance (Ongoing and Capital)
- ❖ New Structure up to code
- ❖ New Pavilion Structure up to Code -- At Capt's Expense 50K

Option 4 New Structure Lease Site (Negatives)

- ❖ Percieved as larger impact – Not Current Location
- ❖ Impact to Park Usage of Current Pavilion Space on Water with adjoining grass field

Option 5 Alternate Lease Site/Facility South Parcel



Option 5 New Structure Lease Site (Positives)

- ❖ Not at Taxpayer Cost (\$750,000-\$1,000,000+/-)
- ❖ No Building Closure – (Loss of Employees, Customers)
- ❖ Slightly Increased Rent – Larger Net Rent
- ❖ No Legal Liability – (Indeterminate)
- ❖ Future Issues - Less Legal Responsibility
- ❖ Future Issues – Captain's Maintenance (Ongoing/Capital)
- ❖ New Structure up to code

Option 5 New Structure Lease Site (Negatives)

- ❖ More Tree Loss
- ❖ Perceived as larger impact – Not Current Location
- ❖ Disturbing a New Area of the Park
- ❖ FCT site – restricted (Currently not Permitted FDEP Approval Req'd)
- ❖ Bridge Repair needed quicker/Paved ADA walkway
- ❖ Not Desired by Capitan's
- ❖ Parking on South Site begins to make more sense

Option 6 Alternate Lease Site/Facility



Option 6 New Structure Lease Site (Positives)

- ❖ Not at Taxpayer Cost (\$750,000-\$1,000,000+/-)
- ❖ No Building Closure – (Loss of Employees, Customers)
- ❖ No Legal Liability – (Indeterminate)
- ❖ Future Issues - Less Legal Responsibility
- ❖ Future Issues – Capitan's Maintenance Ongoing and Capital
- ❖ New Structure up to code

Option 6 New Structure Lease Site (Negatives)

- ❖ Larger Tree Loss
- ❖ Less Popular Location for Restaurant Patron's
- ❖ Perceived as larger impact – Not Current Location
- ❖ Dangerous Traffic Pattern – Congestion at Entrance
- ❖ ADA and Regular Parking Problems
- ❖ Not big enough – Could displace other park features
- ❖ Not an appropriate location – defeats being near water and in park
- ❖ Not desired by Captian's
- ❖ Interferes with planned septic location – if necessary

OVERALL OPTION MAP 1-6



Recommendations

- ❖ Options 1 and 2 Legal and Cost Issues Recommend No
- ❖ Options 5 - Permission/Other Issues Recommend No
- ❖ Option 6 -Safety/Support/Other Issues Recommend No
- ❖ Recommended Building Location Options 3 or 4
- ❖ Develop Additional Parking over time Incrementally & Responsibly
- ❖ Continue to Seek Sewer Hookup with Dunes CDD

AMENDED AND RESTATED
CAPTAIN'S BAIT, TACKLE & BBQ LEASE AT BINGS LANDING

This AMENDED AND RESTATED CAPTAIN'S BAIT, TACKLE & BBQ LEASE AT BINGS LANDING ("Amended Lease Agreement") is made and entered as of 19th day of November, 2018 by FLAGLER COUNTY, a political subdivision of the State of Florida, located at 1769 E. Moody Blvd., Building 2, Bunnell, Florida 32110 (the "Lessor"), and CAPTAIN'S BAIT, TACKLE & BBQ, LLC, a Florida limited liability company, located at 5862 N. Oceanshore Blvd., Palm Coast, Florida 32137, and whose business address is 13 Capri Court, Palm Coast, Florida 32137 (the "Lessee"). Together, the Lessor and Lessee, collectively may be referred to as the "Parties".

WITNESSETH:

WHEREAS, the parties entered into the Captain's Bait, Tackle & BBQ Lease at Bings Landing, effective as of the 1st day of September 2011, as amended by a First Amendment dated April 20, 2015, and as amended by a Second Amendment dated June 6, 2016 (collectively the "Lease Agreement") for approximately 4,200 square feet of building space plus appurtenances thereto located at 5862 N. Oceanshore Blvd., Palm Coast, Florida at Bing's Landing Park, Flagler County, Florida (the "Original Location");

WHEREAS, the Lease Agreement permitted the Lessee to use the Original Location for a BBQ restaurant known as Captains BBQ, as well as other uses as provided therein;

WHEREAS, the Lease Agreement memorialized that the Lessee made significant investments in excess of \$300,000.00 for improvements to the Original Location as approved by the Lessor;

WHEREAS, the Lessee has exercised an option to extend the present term of the tenancy created by the Lease Agreement for an additional five (5) years with one additional five (5) year extension subject to mutual consent of the Parties;

WHEREAS, the Parties have discovered that the Original Location suffers from significant structural deficiencies, defects and deterioration, which is well beyond normal wear and tear and not caused by lack of maintenance or repair, that renders the Original Location unsuitable for the Lessee's intended use and occupancy for the remainder of the present term of the Lease Agreement;

WHEREAS, the Lessee has agreed to pay for the cost of the design, permitting and construction of a new building consisting of approximately 4,500 square feet +/- of main building, with an overall footprint of all uses of approximately 5,200 s.f., all adjacent to the Original Location as depicted in the site plan layout attached hereto as Exhibit "A" (the "New Location");

WHEREAS, the Lessee anticipates that the cost to Lessee for the design, permitting and construction of the New Location will be approximately \$1,000,000.00;

WHEREAS, the New Location will be the property of the Lessor subject to the Lessee's tenancy;

WHEREAS, the Lessor has agreed to allow the design, permitting and construction of the New Location to commence immediately upon the Effective Date of this Amended Lease Agreement so that the restaurant and other activities at the Original Location can continue to operate without interruption;

WHEREAS, after the New Location is ready for occupancy the Lessee will relocate its operations and the Lessor shall cause the demolition and removal of the Original Location to allow for additional parking ;

WHEREAS, the Parties agree to extend the term of the Lease Agreement to allow the Lessee to amortize the significant costs to design, permit and construct the New Location;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to amend and restate the Lease Agreement, as follows:

Section 1. Recitals. The above recitals are true and correct and incorporated herein by this reference.

Section 2. Property. Lessee presently leases the Original Location from Lessor as described in the Lease Agreement. Lessor shall continue to lease the Original Location to Lessee until the design, permitting and construction of the New Location is completed. The Lessor agrees to lease the New Location, as depicted in Exhibit "A", to the Lessee after the New Location is designed, permitted and constructed. Lessee shall

be permitted to use the Original Location for all uses allowed in the Lease Agreement until the New Location is ready for occupancy and occupied by the Lessee.

Section 3. Use of the New Location. Lessee may use the New Location for a 150-seat restaurant, bait sales, and a convenience and concession operation, including, but subject to the limitations contained herein: packaged food and beverage sales, concession sundries, promotional apparel, ice, and similarly related items for public sale. The Lessee shall also be permitted to have a BBQ cooker, firewood, propane tanks, and related items outdoors, which shall be used to produce food for sale and consumption at the New Location. Any modification of the use of the New Location as herein described shall only be by the express written consent of the Lessor, provided, however, that any subsequent modification shall be consistent with the uses and conditions stated in this Amended Lease Agreement and Section 6 (Lessee Acknowledgement).

All other park uses may include using pavilions and holding special events such as fishing tournaments and live entertainment/music and shall be handled like any other such park usage requests in accordance with the rules and regulations of Flagler County as may exist at the time the pavilion usage or special event is proposed to occur. The Lessee shall have no special privilege with regard to any other park facilities outside the leased premises except as provided for herein.

Section 4. Improvement Requirements/Obligations of the Lessee.

- a. General - All construction shall at a minimum meet the Florida Building Code to include but not be limited to: the applicable building elevation to avoid flooding, ADA requirements, and permitting/construction standards of the Code. All structures shall be constructed on a stem wall, pilings, or other approved foundation method to minimize the necessity for fill and subsequent destruction of trees and to avoid, as reasonably practicable, flooding of the structure. All uses and structures for the New Location shall fit within the (approximately 65ft by 80ft) or approximately 5,200 s.f. total building/space footprint shown on attachment A (Main Building with porch approximately 4,500 s.f.) and the approved site plan. All construction within the New Location shall be at Lessee's Expense, unless mutually agreed upon by the Parties. The fact that construction expenses are borne by the Lessee shall not be understood to preclude any labor or minor construction assistance by the Lessor.

- b. Timeframes in Constructing at New Location - All permits shall be obtained and construction shall commence with 12 months from the effective date of this Amended and Restated Lease. Construction shall be complete at the New Location as evidenced by a certificate of occupancy no later than 24 months from the effective date of this Amended and Restate Lease Agreement. Upon issuance of such certificate of occupancy, the constructed real estate improvements shall become the property of Flagler County. The Lessee shall occupy the new facility no later than 30 months from the effective date of this Amended Lease Agreement.
- c. Main Building - The main building to include the deck area shall be constructed with Cracker style or Caribbean island architectural style. The square footage of the main building will be likely be around 4,500sq. ft. with additional outside uses, that may or may not under roof. The roof if metal shall be a standing seam metal roof. Otherwise a shingled roof is permitted provided it is a 50-year shingle or greater and matches the color of other shingle roofs on site (other than Original Location). The construction may be masonry or frame or some combination thereof however, the exterior finish shall be a finished concrete Hardie Board siding in order to mimic the styles mentioned above. Windows shall be single hung, vinyl, low E windows or equivalent. The main entrance into the premise shall face southward. The final materials and color of all exterior elements shall be approved by the Parties. The general interior layout, finishes shall be at the discretion of the Lessee. Changes to the above requirements may otherwise be approved by the General Services Director.
- d. Outside Area - Any outside areas associated with the New Location utilized for any of the above purposes listed in Section 3 shall be screened from view with a 6ft opaque screening, shadow box wood fence or solid wood fence, stained, painted, or natural, as finally approved by the Lessor's General Services Director. Such outside area also may be permitted to be covered at the expense of the Lessee, subject to the approval of the General Services Director. Shorter screening of the same type may be permitted around any HVAC unit, grease tank or other visible feature for safety or operational reasons.
- e. Landscaping and tree mitigation - The outside of the building or screen fence shall be generally be lined with non-deciduous shrubs. Additionally there shall be at least five

(5) trees and additional shrubs/flowers/landscaping incorporated into the landscaping of the New Location. The trees may be all native palm trees or other approved native species by the Lessor. The shrubs shall be non-deciduous and at least 30 inches upon planting. All landscaping shall be incorporated into a landscaping plan that the parties shall approve.

The Lessee shall provide ten (10) hardwood trees and ten (10) native palm trees to plant within the park as mitigation for trees removed due to the New Location or the parking obligations of the Lessor. The hardwood trees shall be live oaks and other trees from the oak tree family and any other native, canopied hardwood trees. Palm trees shall be cabbage palms and other native species within the park. All trees shall be approved by the Lessor and shall be a minimum of 2" dbh (diameter at breast height (4ft from grade)).

- f. Bait - The Lessee shall have an obligation to provide bait at the New Location. Between March 1st and September 30, the Lessee shall attempt to offer live bait if available and at a minimum, frozen bait. Frozen bait only may be provided outside this time frame. Between March 1st and September 30th such bait shall be provided at least between 6am and 2pm and between 7am and noon the remainder to year. These minimum time frames shall not apply for County recognized holidays. In lieu of providing bait at the New Location, the Lessor may provide or cause to be provided through a sub-lessee such bait at the boat ramp in the first parking space to the west of the boat ramp or at another location agreed upon by the Parties. Such sub-lessee shall be specifically approved by the Lessor.
- g. Maintenance – Maintenance of the New Location shall be solely the responsibility of the Lessee with the exception of the landscaping/planting, which shall be the responsibility of the Lessor. Maintenance of the new, constructed facilities by the Lessee shall apply regardless of whether the County assisted in the construction of such new facilities.

Section 5. Improvement Requirements/Obligations of the Lessor.

- a. General - All improvements outside the leased premises shall be at the Lessor's expense unless otherwise specified herein or mutually agreed upon by the Parties.

- b. Vehicular Parking – The Lessor agrees to use its best effort to expand visitor parking at the park by at least 30 parking spaces within 24 months of Lessee occupying the New Location. The new parking may be constructed through new spaces south of the main drainage canal or reconfiguring existing parking areas north of the main drainage canal, or some combination thereof. The final configuration and construction materials for the new parking shall be at the discretion of the Lessor. Lessor agrees to work to identify at least ten (10) parking spaces for use by the Lessee to include at least two (2) ADA spaces.
- c. Septic - The Lessor shall be responsible to upgrade or replace the existing septic system to accommodate the New Location and all uses served within the park at Lessor's expense. The upgraded or new septic system may be anaerobic for environmental reasons as determined solely by the Lessor.
- d. Boat Parking - The Lessor shall work to create up to four (4) longer- term (1 hour+/-) boat parking spaces on the south side of the boat basin yet still retain the canoe/kayak launch. Such new boat parking spaces may or may not be physically feasible or permissible. The Lessor shall have thirty –six (36) months after the New Location is occupied to provide any boat parking spaces. Lessor's obligation to provide the additional parking shall not be subject to the default provisions under this Amended Lease Agreement, nor subject to specific performance remedies, as the arrangement of parking within the boat basin park is within the sovereign planning function of Flagler County.

The Lessor agrees to maintain/enforce the boat parking within the boat basin as transitory boat loading and unloading and short-term parking and shall specifically preclude any boat leasing/rental/sales, etc., within the marina basin unless otherwise mutually agreed upon by the Parties.

- e. Tree and Landscaping Plantings – The Lessor agrees to plant and maintain any trees provided by the Lessee both inside and outside the New Location.
- f. Construction Assistance - The Lessor at the Lessee's written request shall agree to assist the Lessee and its general contractor (who secures permits for the New Location) in the management, coordination, and oversight of construction at the New Location at no cost to Lessee. By requesting such assistance the Lessee

acknowledges that the Lessor or its agents shall bear no responsibility whatsoever for any of the construction of the New Location. In addition, Lessee shall hold Lessor and Lessor's representatives performing such assistance harmless in addition to any other protections afforded by sovereign immunity.

- g. **Maintenance** - All areas and improvements outside the New Location shall be the maintenance responsibility of the Lessor unless otherwise agreed upon in writing by the Parties.

Section 6. Lessee Acknowledgement. Lessee acknowledges that Bings Landing Park is a unique environmental, recreational and historical park facility that: (i) is located on the A1A National Scenic Byway; (ii) is part of the Flagler County Coastal Greenway; (iii) is within the National Estuarine Research Reserve of the United States; (iv) includes historical resources that are listed on the National Register of Historic Places; and (v) has received national and state awards for its historical, environmental, and scenic qualities. Lessee acknowledges that Lessor has achieved these characteristics and attributes with substantial investments of its funds and staff, numerous grants from the State of Florida and the federal government, and broad based volunteerism from its citizens and civic groups. Lessee further acknowledges that it will operate its facilities and services to the public in recognition of and in respect for these attributes and the park's importance to the citizens of Flagler County and the State of Florida, and accordingly will not compromise or harm the quality or reputation of this unique park or its resources. Lessor desires that Lessee be free to utilize the attributes and qualities of the park in its promotion of its business interests and in its service to the public.

Section 7. Term. The term of the Lease Agreement ends on August 31, 2026, which is hereby affirmed and acknowledged as the remaining term in the original Lease Agreement as amended. In order to allow Lessee to amortize the significant funds it will invest for the design, permitting and construction of the New Location, Lessee is hereby granted three (3) options to renew for three (3) additional five (5) year periods after the end of the remaining term. If Lessee decides to exercise an option as provided herein, Lessee shall give written notice to Lessor at least ninety (90) days before the expiration of the remaining term, as specified above, or prior to the end of the first option period, if exercised by Lessee. If Lessee exercises both of the renewal options described above,

then, at the end of the additional fifteen (15) year option period (August 31, 2041), this Amended Lease Agreement may be renewed for an additional five (5) year period upon the mutual agreement of both parties.

Section 8. Rent. Lessee shall continue to pay the rent in effect under the Lease Agreement until the date that Lessee has relocated its business operations to the New Location (the "New Rent Commencement Date") at which time the rent shall be \$4,000.00 per month. However, to recognize the significant costs to Lessee for the design, permitting and construction of the New Location, the rent amount shall be reduced by \$3,000.00 per month to \$1,000.00 per month. It shall remain at \$1,000 per month for the first five (5) years after the New Rent Commencement Date, without any annual adjustments. Thereafter, the amount of the monthly rent payment shall be adjusted annually by three percent (3%) for the remaining term of the Amended Lease Agreement, including any extensions. Payments shall be due on the first day of each month and shall be considered late if not paid by the fifteenth (15th) day of each month and shall include any applicable sales taxes.

In addition to the rent specified above, Lessee shall be responsible for payment of all utility fees and deposits for water, wastewater and electricity to the extent those utilities are separately metered for the New Location and the uses occurring thereon. In the event that any of the above utilities are not separately metered for the New Location then those utilities shall be the responsibility of the Lessor unless otherwise agreed to by the Parties in writing. The Lessor shall have the ability to sub-meter the water service for the facilities.

During any period of time during which the Original Location or the New Location is partially or totally destroyed, damaged or otherwise rendered unusable or not tenantable by a natural disaster or other casualty that is not caused by the negligence or willful act of Lessee or its agents, employees, contractors or invitees, the monthly rent shall be abated until such time as the damaged or destroyed premises is replaced or restored so that the Lessee can commence its business operations as permitted in this Amended Lease Agreement.

Section 9. Security Deposit. The Lessor is already in possession of a security deposit from Lessee of \$1,000.00 under the Lease Agreement, which shall serve as and constitute the security deposit under this Amended Lease Agreement. No

additional security deposit payments shall be required from Lessee under this Amended Lease Agreement except as specifically provided in this paragraph. The security deposit shall be forfeited upon Lessee's failure to perform all the terms, covenant, and conditions of this Amended Lease Agreement, including any repair or maintenance responsibility. Lessor shall have the right, but not the obligation, to apply all or any part of the security deposit to cure any default of Lessee, and if the Lessor does so, Lessee shall, upon demand, deposit with Lessor the amount necessary so that Lessor shall at all times have on hand the full deposit during the term of this Lease and renewals thereof. Lessee's failure to pay the Lessor a sufficient amount to restore the security deposit to the above amount within seven (7) days after receipt of demand therefor shall constitute a breach of this Amended Lease Agreement. No interest shall be payable by Lessor to Lessee on the security deposit. Should Lessee comply with all of the terms, covenants, and conditions and promptly pay all of the rental installments as they become due, and all other sums payable to Lessor by Lessee hereunder, the security deposit shall be returned to the Lessee at the end of the term of this Amended Lease Agreement, or any renewal period thereof, after Lessee has vacated the New Location in a condition reasonably acceptable to Lessor, ordinary wear and tear excepted.

Section 10. Late Charge. Ten (10) calendar days after each rental payment is due, there will be a late charge of five percent (5%) assessed on all unpaid amounts, which are due and payable by the Lessee. Such late charge shall be assessed at five percent (5%) per month for each month or part thereof that the rental amount(s), including applicable sales taxes, that may be overdue.

Section 11. Operations. Lessee is not authorized to operate any business on the New Location outside of the scope of what is permitted in Section 3 of this Amended Lease Agreement without written authorization from Lessor. Lessee shall, at a minimum, operate and be open six (6) days per week from the hours of 10:30 am to 9 pm during the term of this Amended Lease Agreement and any renewals thereof, excluding bait sales, which shall operate per the hours and terms/conditions contained herein. Lessee shall not serve liquor (does not include beer and wine) before 5pm Monday-Friday, except for private parties.

Lessee shall have the option to extend or modify such hours upon the approval by the County's Director of General Services provided such hours are not reduced by more than 25% overall and that such hours don't extend before 6 am, nor later than 11 pm.

Operations may be closed for Thanksgiving and December 24th, December 25th and one week for vacation each year as determined by the Lessee. Additional times may be approved by the General Services Director. Such closures shall be noticed to the public one week in advance, whenever possible.

Section 12. Taxes. Lessee shall be responsible for the payment of any and all taxes levied or assessed upon any personal property, fixtures, improvements, located at the Original Location and the New Location and owned by Lessee, sales taxes on goods sold, rented, or commissioned by Lessee from the Original Location and the New Location, and all leasehold and possessory interest taxes levied or assessed by any taxing authority. Unless otherwise specified herein, the payment of the taxes described above shall be paid directly to the appropriate taxing authority by Lessee. Within ten (10) days of receipt of written demand of Lessor, the Lessee shall provide to Lessor proof of payment of the taxes specified above, with the exception of the sales tax due on the rent payments, which shall be remitted monthly along with each monthly rental payment when it becomes due.

Section 13. Lessee and Lessor; Alterations and Improvements. To implement the uses contained in Section 3, the Lessee may, at its sole cost and expense, construct improvements that may be necessary and desirable for its use of the New Location, subject to Lessor's approval which shall not be unreasonably withheld. Lessor's approval for minor, nonstructural work that does not require permits shall be obtained from the General Services Director in writing. For all other alterations, Lessee must obtain proper permits as well as written approval from the County Administrator or his/her designee prior to permit application. All changes, alterations, or improvements to the New Location are to be constructed and designed in accordance with the overall scheme for Bings Landing Park and in a workmanlike manner, and should be constructed in compliance with applicable laws, rules, regulations and codes. Any alteration or construction is subject to the Florida Building Code and may be reviewed by the County's Technical Review Committee for compliance. Lessor approves and consents to the New

Location as conceptually shown in Exhibit "A" and the architectural elevations as conceptually shown in Exhibit "B", attached hereto. The Exhibit "A" conceptual layout plan and Exhibit "B" architectural elevations are not necessarily to scale. All of Lessee's equipment, furnishings and other property that is not permanently attached to the New Location shall remain the property of and be removed by Lessee from the New Location at the end of the term of this Amended Lease Agreement or the earlier termination thereof.

Section 14. Construction Liens. The New Location shall not be subject to any lien, and not less than five (5) calendar days before any construction material or services are provided to Lessee, Lessee shall post on the New Location and record a notice of non-responsibility of Lessor, giving notice that Lessor is not responsible for payment of such material or services and that the New Location subject to this Amended Lease Agreement, as public property, is not subject to liens. If, because of Lessee's act or omission, any construction lien, claim of lien, or professional lien is recorded in the Public Records of Flagler County, Florida, pursuant to Chapter 713, Florida Statutes, or any amended or successor statute, encumbering any portion of the Original or New Location or Bings Landing Park, then Lessee shall at its own expense and cost cause said liens to be discharged, released or satisfied within fifteen (15) calendar days of receipt of notice of the recording of any such lien. Lessee may not lien the real estate improvements for any purpose, as this is County property as elsewhere provided in this Amended Lease Agreement.

Section 15. Repairs and Maintenance Generally. When Lessee assumes occupancy of the New Location, Lessee shall keep the New Location and all equipment, fixtures, and furnishings located thereon in good condition and repair. The same obligation shall apply to the Original Location prior to Lessee's occupancy of the New Location. Lessee acknowledges and agrees to implement adequate measures and exercise reasonable diligence to collect and control trash and refuse generated by its use of the Original and New Location so that such trash and refuse is properly placed in present receptacles and those to be placed on the New Location and that such trash and refuse conditions are not causing littering of the park. Lessee shall secure and install a dumpster from the local waste management provider at a location mutually agreeable to the Parties and properly screened as provided herein for outdoor storage. In addition,

Lessee agrees that its food service operations will result in the generation of grease and shall ensure that proper grease traps are in place and in working order to include any grease removal, serving the New Location (or Original Location as the case may be) at its sole cost and expense as may be required, by the appropriate waste management provider. The Lessor will be responsible for the maintenance and upkeep of the septic system to include any necessary pumping, maintenance and repair.

Lessor is responsible for maintaining the trees and the grounds Lessee shall be responsible to maintain and repair all other components/elements located within the New Location area.

Section 16. Compliance with Laws. Lessee shall, at its own cost and expense, comply with all applicable federal, state and local laws, and rules and regulations pertaining to Lessee's use of the New Location, as they may be amended from time to time.

Section 17. Peaceful Possession and Quiet Enjoyment. The Lessee and its customers shall have the right of ingress, egress, and of free access to the Original Location and the New Location during the times Bings Landing is open to the public and the Lessor guarantees the peaceful possession and quiet enjoyment thereof to the extent possible with a public park facility and the special events that will occur at the park from time to time. Lessor reserves the right to designate short-term vehicle parking spaces and boat-docking spaces for use by Lessee's customers as stated herein.

Section 18. Prohibited Activities. The following operations, activities and uses are specifically prohibited on the Original Location and the New Location:

A. The keeping or storage of flammable liquids inside the New Location.

B. The keeping or storage of corrosive or poisonous chemicals or chemical compounds other than normal commercial cleaning supplies used in a restaurant as permitted by applicable laws and regulations. No corrosive or poisonous chemicals or chemical compounds other than normal commercial cleaning supplies shall be stored, handled or dispensed in any manner.

C. Any improvements to or use of the property that unreasonably interferes with the use or enjoyment of adjacent or nearby properties leased or licensed to other tenants or users by Lessor.

D. Any use of the Leased Premises that would interfere with or adversely affect the operation or maintenance of Bings Landing Park or would otherwise constitute a hazard to the public.

E. Any use that would constitute a violation of any applicable federal, state or local law or regulation.

F. The dumping, storage, disposal, or incineration of junk, sewage, garbage or refuse.

G. Smelting.

H. The storage of any motor vehicles, equipment, or machinery not directly used by Lessee in its operations.

I. No animals of any kind shall be kept on the site, except that service animals and seeing-eye dogs are specifically permitted on site.

Section 19. Assignment or Subletting. Lessee may not sublet all or any part of the Original Location and the New Location or assign this Amended Lease Agreement without the express written consent of the Lessor. The assignment or sublease shall incorporate and be subject to all of the provisions in this Amended Lease Agreement. No assignment or sublease shall relieve the Lessee of its obligation to pay the rent provided for in this Amended Lease Agreement in the event of a default by the sublessee or assignee unless Lessee is specifically relieved of that obligation in writing by Lessor. Lessee shall send Lessor a copy of the proposed assignment or sublease not less than sixty (60) calendar days prior to its proposed execution and Lessor shall send Lessee notice of its consent or refusal to consent not less than thirty (30) calendar days thereafter. The Lessor may require any approved sublessees or assignees to post an additional security deposit in such sum as the Lessor may in its absolute discretion deem appropriate as a condition to approving any such sublease or assignment.

Section 20. Insurance, Indemnity and Hold Harmless. Lessee shall indemnify and hold harmless Lessor against any and all liability, claims, demands, expenses, fees, fines, penalties, suits, proceedings, actions and costs of actions, including attorneys' fees, paralegal fees, expert witness fees, consultant fees and any other litigation expense of any kind or nature, including those incurred on appeal or in settlement or mediation, arising out of or in any way connected with the Lessee's use,

occupancy, management or control of the Original Location and the New Location, or the act or omission of Lessee or its agents, servants, employees, customers, patrons or invitees, whether on the Original Location, the New Location or elsewhere in the park. Lessee shall at its own expense procure and maintain liability insurance in a form acceptable to the County Administrator and/or Purchasing Manager from an insurer authorized to do business in Florida. This insurance shall have a minimum limit of liability of \$1,000,000 combined single limit, per occurrence, for bodily injury, property damage, premises, and operations liability including food liability and liquor law legal liability. All policies shall cover all uses and activities conducted by the Lessee on the Original Location and the New Location and shall name the Lessor as loss payee.

Lessee shall at its own expense procure and maintain insurance sufficient to repair or replace the New Location, including, without limitation, any fixtures or contents belonging to the Lessor which are damaged as a result of the acts of Lessee, its employees, agents or customers, or by any failure of Lessee to perform its obligations hereunder.

All insurance policies, certificates and renewals shall be delivered to and held by Lessor. All policies shall be endorsed and shall list Flagler County as an additional insured.

The above indemnity provisions shall not apply to damage or liability brought on by a natural disaster, Act of God or other event beyond the control of the Lessee and not related to its operations on the Leased Premises.

Section 21. Nonliability of Lessor to Lessee. Lessor shall not be liable to Lessee, or its agents, representatives, invitees or employees, or any other person, for injury to or death of any of them, or for any damage to any of Lessee's property or loss of revenue caused by any third persons in the maintenance, construction or operation of the concession, its appurtenances, facilities or equipment, or caused by any third persons using the concession or its appurtenances, facilities and equipment, whether the injury, death or damage is due to negligence or not. Third persons, as used in this section, shall include the United States of America and the State of Florida, or any of their agencies, and all other persons.

Section 22. Lease Not A Joint Venture. Nothing contained in this Amended Lease Agreement is intended or shall be construed in any way as creating or establishing the relationship of partners or joint ventures between Lessor and Lessee or as constituting either party as the agent or representative of the other party for any purpose or in any manner.

Section 23. Exclusivity. Lessee shall have the exclusive right to sell to the public BBQ food at Bings Landing. Additionally, with regard to bait the Lessee shall have exclusive rights to sell same to the public at Bings Landing Park provided that the Lessee is adequately providing these services to the public, as determined solely by the Lessor. The Lessee shall have no other special or exclusive rights including to any charter fishing or eco-tourism service, fishing tournaments, use of park facilities or to hold or control special events. The public and organizations that rent or use Bings Landing Park shall have the right to bring their own food and beverages into Bings Landing Park without interference by the Lessee. The Lessor also reserves the right to add additional vendors (lessees or licensees) on the park property, that do not directly conflict with the exclusive rights above. Although not exclusive, no other permanent food vendors shall be permitted on the property. Special Events may be permitted on the property that temporarily allow the sale of non-BBQ food.

Section 24. Defaults. This Lease shall be in default and may be terminated upon the occurrence of any of the following events:

A. Failure to pay rent, utilities or applicable taxes. The failure by Lessee to pay Lessor any sum provided for herein when due. Lessee shall be given thirty (30) days written notice within which to cure this default.

B. Violation of terms. Lessee's violation of or failure to perform any term, covenant, or condition of this Lease. Lessee shall be given thirty (30) days written notice within which to cure this default, unless Lessor prescribes a shorter time to Lessee as determined in Lessor's sole discretion that the continued operation for a longer period by Lessee potentially endangers the property of the County or potentially threatens the health and safety of the general public that uses Bings Landing Park.

C. Insolvency. In the event that Lessee becomes insolvent, bankrupt, or makes an assignment for the benefit of creditors; or the interest of Lessee in the Original

Location and the New Location is levied upon or sold upon execution, or becomes vested by operation of law in some other person or entity because of the insolvency of Lessee; or a receiver or trustee is appointed for Lessee.

D. Abandonment. If the Lessee vacates or abandons the Original Location or the New Location, or permits the Original Location or the New Location to remain vacant or abandoned for a period of thirty (30) calendar days or more, regardless of whether or not rent payments are current. However, Lessor may at its sole discretion consent in writing to the vacation of the Original Location or the New Location for a longer period of time upon terms and conditions set by Lessor. Notwithstanding the foregoing, the Lessee shall abandon and completely vacate the Original Location after its business operations are relocated to the New Location to allow the demolition and removal of the building located at the Original Location by the Lessor.

E. Conviction of a Crime. If the Lessee is convicted of any felony or second or third degree misdemeanor as a result of a jury verdict, nonjury trial, or entry of a plea of guilt or nolo contendere. "Conviction" for purposes of this Lease shall be as defined in Florida Statutes, as amended from time to time.

Section 25. Remedies for Default. In the event of a default, Lessor shall have the following remedies:

A. Repossession by Lessor. Upon default by Lessee, Lessee's right to possession of the Original Location or the New Location shall terminate without notice or demand by Lessor, and Lessee shall surrender possession to Lessor. Lessee hereby grants to Lessor full and free license to enter the Original Location or the New Location to take possession of the Original Location or the New Location in any lawful manner and to expel Lessee. If Lessee fails to remove its personal property as provided within thirty (30) calendar days after notice, Lessor may dispose of personal property not removed by Lessee. In that case, Lessee is deemed by this Lease to have sold, assigned and transferred to Lessor all of Lessee's right, title and interest in the personal property not removed by Lessee.

B. Damages. In addition to terminating this Amended Lease Agreement and retaking possession of the Original Location or the New Location, Lessor may recover all damages and rent accrued or accruing under this Amended Lease Agreement or arising

out of any breach of this Amended Lease Agreement. Lessor may resume possession of the Original Location or the New Location for its own account and recover from Lessee the total rent due under this Amended Lease Agreement for the remainder of the term, reduced to present value, or Lessor may resume possession of the Original Location or the New Location and at its option re-rent it for the remainder of the term for the account of Lessee and recover from Lessee, at the end of the term or at the time any rent becomes due under this Amended Lease Agreement, the difference between the rent specified in this Amended Lease Agreement and the rent received upon the re-renting of the property.

C. Other remedies. Lessor may pursue all other remedies provided by law or equity for the breach of this Amended Lease Agreement. No right or remedy conferred upon or reserved to Lessor in this Amended Lease Agreement is intended to be exclusive of any other right or remedy, and each right and remedy shall be cumulative and in addition to any other right or remedy of Lessor under this Amended Lease Agreement, now or hereafter existing at law or equity or by statute.

D. Enforcement. In the event that either party must judicially enforce the terms of this Amended Lease Agreement the prevailing party shall be entitled to reasonable attorneys' fees, paralegal costs, expert witness fees, consultant fees, and any other litigation expense or cost, whether in trial, settlement, mediation or appeal.

Section 26. Waiver of Default; Effect. The acceptance by Lessor of one or more monthly rental installments after they fall due or after knowledge of any breach by Lessee of this Lease or after the sending of any notice or demand, or any other act or series of acts by Lessor, shall not be deemed or construed as a waiver of Lessor's right to act or as a waiver of any other right given to Lessor under this Lease or as an election not to proceed under the provisions of this Lease. The failure by Lessor to collect or demand any sums due under this Lease shall not relieve Lessee's obligation to pay those sums when demanded.

Section 27. Notices. Any notices required by this Lease, or which Lessor or Lessee may wish to serve on the other, shall be in writing and shall be deemed served, whether or not receipt is admitted, when delivered in person to an agent or employee of the party at its place of business or when deposited in the U.S. Mail, postage prepaid, return receipt requested, addressed to the Lessor as follows:

Flagler County
Attn: County Administrator
1769 E. Moody Blvd. #2, Suite 301
Bunnell, FL 32110

Flagler County
Attn: General Services Director
1769 E. Moody Blvd., Bldg #5
Bunnell, FL 32110

Flagler County
Attn: County Attorney
1769 E. Moody Blvd. #2 Suite 303
Bunnell, FL 32110

And As to the Lessee, the following addresses:

Michael Goodman
13 Capri Court
Palm Coast, Florida 32137

Jay W. Livingston, Esq.
Livingston & Sword, PA
393 Palm Coast Parkway SW #1
Palm Coast, FL 32164

Section 28. Inspection of Leased Premises. Lessee shall allow Lessor's authorized representative access to the Original Location or the New Location at all reasonable hours for the purpose of examining and inspecting said Original Location or the New Location for the purposes necessary, incidental to, or connected with the performance of Lessee's obligations under this Lease. This shall be in addition to full 24 hrs. a day inspection throughout the construction process at the New Location by the Flagler County Building Department or the County appointed construction coordinator, prior to a certificate of occupancy being issued for the New Location.

Section 29. Signs. Lessee shall be permitted to install up to three (3), 8 s.f. signs on the building subject to the design/appearance approval of the Lessor and compliance with the Flagler County Land Development Code, Article VII, and other provisions of the Flagler County Code, as amended and/or supplemented from time to time. Signs shall be on the east, west and south sides of the building. The design, permitting, installation and maintenance of any sign shall be at the sole expense of Lessee and shall substantially follow the conceptual theme and style of the County

proposed park signage. The one (1) existing two-sided sign at the main entranceway to the concession shall be permitted to remain for Lessee's use. However, any changes to existing signs shall be subject to the review and approval process as provided for above.

Section 30. Beverage License. The Lessee shall be permitted to apply for and secure a 4COP (SRX) non-quota beverage license from the Florida Division of Alcoholic Beverages and Tobacco for the sale and consumption of beer wine and liquor on the New Location. Notwithstanding the scope of such license, Lessee shall be limited to the sale and consumption of beer, wine and liquor as regulated by state law during normal business hours. Such sales and consumption shall be restricted to the New Location, unless otherwise permitted through the County's normal park permit process for onsite consumption. The Lessee shall be permitted to sell beer and wine at the Original Location as provided for in the Lease Agreement until the Lessee relocates its business operations to the New Location. No package sales for offsite consumption shall be permitted from this location.

Section 31. Effect on Prior Agreements. This Amended Lease Agreement supersedes all prior agreements, if any, between the parties regarding the leasing of the Leased Premises and, as of the date of this Lease, those prior agreements shall be of no force or effect. Notwithstanding the foregoing, the terms of the Lease Agreement shall remain valid and binding on the parties with regard to the Original Location for as long as the Lessee occupies the Original Location. Upon the date that the Lessee occupies and commences its business operations from the New Location the Lease Agreement will terminate and be of no further force and effect and the terms of the Amended Lease Agreement shall control all of the rights and obligations of the Lessor and the Lessee with regard to the New Location and the Lessee's operations thereon. In the event there is a conflict between the Lease Agreement and this Amended Lease Agreement with regard to the Lessee's use of the Original Location then the Lease Agreement shall control until the Lessee relocates its business operations to the New Location and the Lease Agreement terminates, as provided for above.

Section 32. Construction of Lease. This Amended Lease Agreement shall be construed under the laws of the State of Florida and Flagler County Ordinances and any

litigation regarding this Amended Lease Agreement shall be in the County or Circuit Court of Flagler County, Florida.

Section 33. Short Form of Lease. Either party may prepare for execution a short form of this Amended Lease Agreement for recording in the public records. The costs of recording the short form of this Amended Lease Agreement shall be paid by the party desiring to record the short form. Both parties shall be provided a copy of the Short Form Lease proposed to be recorded, at least 14 days prior to any recording, to allow a review by the other Party.

Section 34. Amendments to Lease. This Amended Lease Agreement may be amended only by written instrument executed with the same formalities as this Amended Lease Agreement.

Section 35. Property Rights. Lessee agrees that no subordination or use of the Lessee's interest as collateral will be permitted without the Lessor's express written permission, which is in the Lessor's sole and absolute discretion.

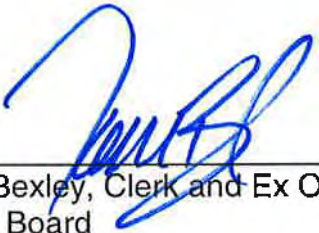
Section 36. No Third Party Beneficiaries. Except as otherwise expressly provided, the covenants, conditions, and agreements contained in this Amended Lease Agreement shall bind and inure to the benefit of the Lessor and Lessee and their respective heirs, successors, administrators, and assigns.

Section 37. Force Majeure. No party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations, or any of them, is delayed or prevented by *Force Majeure*. *Force Majeure* shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, terrorism, hurricane, explosion, any emergency declaration under state or local law, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause whether or not enumerated in this Section is beyond the control and without the fault or negligence of the party seeking relief under this Section.


Date of Approval: 19 November, 2018

ATTEST:

**Flagler County Board of County
Commissioners**

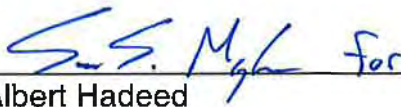


Tom Bexley, Clerk and Ex Officio Clerk
to the Board



Gregory L. Hansen, Chairman

Approved as to form:



Albert Hadeed
County Attorney

S.S. Mh
Witness Signature

Sean S. Moylan
Print Name

Christie Shays
Witness Signature

CHRISTIE L. MAYER
Print Name

CAPTAIN'S BAIT, TACKLE & BBQ, LLC

A Florida limited liability company

By: Grace
Grace A. Goodman, Managing
Member

STATE OF FLORIDA

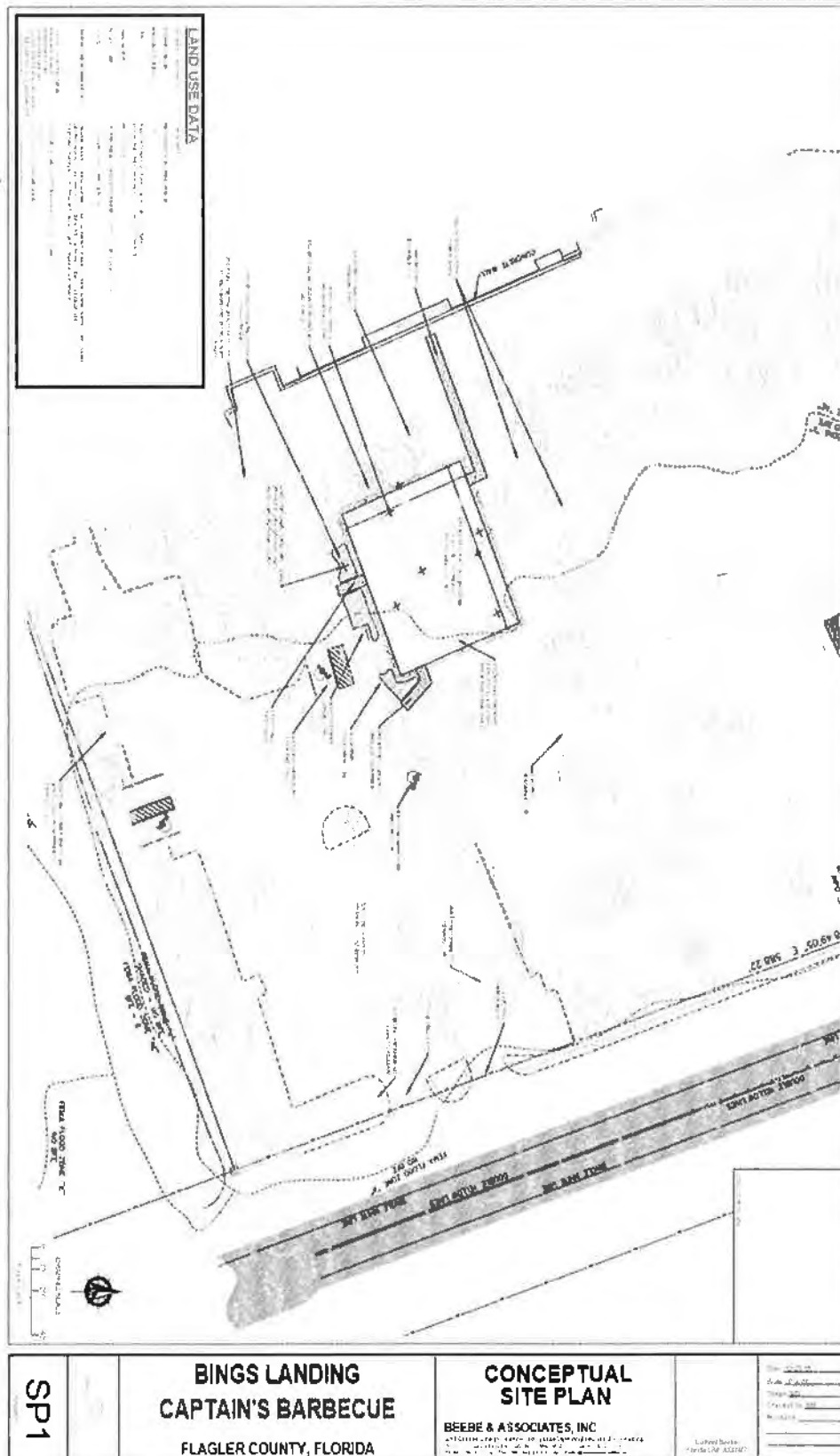
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 30 day of November, 2018 by Grace A. Goodman, the Managing Member of Captain's Bait, Tackle & BBQ, LLC, on behalf of the company. She ☒ is personally known to me or ☐ has produced a driver's license as identification.



Christie Shays
NOTARY PUBLIC
CHRISTIE L. MAYER
Printed Name

EXHIBIT A



**SECOND AMENDMENT TO
CAPTAIN'S BAIT, TACKLE & BBQ
LEASE AT BING'S LANDING**

This Second Amendment to Lease ("Amendment") is made and entered into as of June 6, 2016 by **FLAGLER COUNTY**, a political subdivision of the State of Florida, located at 1769 E. Moody Blvd., #2, Bunnell, Florida 32110, (the "Lessor"), and **CAPTAIN'S BAIT, TACKLE & BBQ, LLC**, a Florida limited liability company, located at 5862 N. Oceanshore Blvd., Palm Coast, Florida, and whose business address is 113 Island Estates Parkway, Palm Coast, Florida 32137 (the "Lessee").

WITNESSETH:

WHEREAS, the Parties entered into a certain Lease, effective as of the 1st day of September, 2011, (the "Lease") for approximately 3,140 square feet of building space plus appurtenances thereto located at 5862 N. Oceanshore Blvd., Palm Coast, Florida, at Bing's Landing Park, Flagler County, Florida (the "Leased Premises") as depicted on Exhibit A attached hereto; and

WHEREAS, the Lessee has made significant additional improvements to the Leased Premises totaling over \$100,000 to include the addition of 400 square feet of enclosed space, deck screening, upgraded flooring and improved seating; and

WHEREAS, the Parties amended the lease, effective April 20, 2015, to extend the term of the Lease to allow the Lessee the opportunity to amortize the funds expended on improving the Leased Premises; and

WHEREAS, the Lessee seeks to provide patrons with waterfront seating by further expanding the enclosed porch of the Leased Premises by an additional 800 square feet at an approximate cost of \$20,000.00.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to amend the Lease sections as follows:

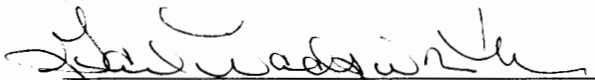
Section 1. Property. Lessor hereby leases to Lessee approximately 3,140 square feet of building space, to include the existing attached enclosed porch area; an open, outside patio cooker area adjacent to the public entry facing State Road A1A; and an expanded 800 square feet deck area, all shown on Exhibit A as amended, attached hereto and incorporated herein by reference. The addition of the expanded space shall not allow or result in an increase in the present seating capacity which is 100 seats. The expanded space is to accommodate Lessee's request to enlarge the seating area

in support of the Lessee's design improvement efforts and for the benefit of Lessee's patrons.


Section 2. Terms and Conditions Remain. All other terms and conditions of the Lease and First Amendment remain in full force and effect.

APPROVED by the Board of County Commissioners of Flagler County on the 6th day of June, 2016.

ATTEST:


Gail Wadsworth, Clerk of the Circuit
Court and Comptroller

**FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS**

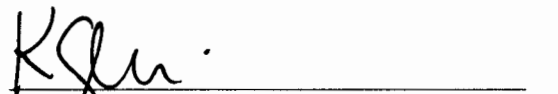

Barbara S. Revels, Chair

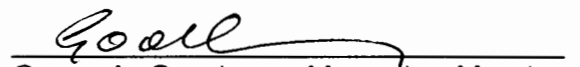
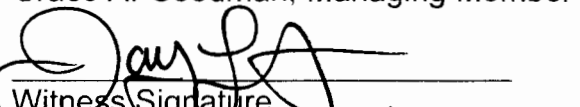
Approved As To Form:


Al Hadeed, County Attorney

CAPTAIN'S BAIT TACKLE & BBQ, LLC
A Florida limited liability company

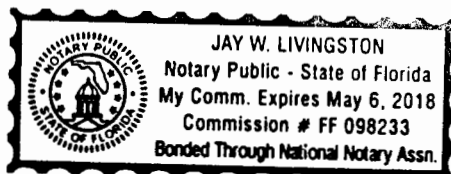
ATTEST:


Witness Signature
Kristy Goodwin
Printed Name


Grace A. Goodman, Managing Member

Witness Signature
Jay W. Livingston
Printed Name

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 24th day of June, 2016, by Grace Goodman, Managing Member of Captain's Bait Tackle & BBQ, LLC on behalf of the company. She is personally known to me or has produced a driver's license as identification.





Notary Public
Jay W. Livingston
Printed Name

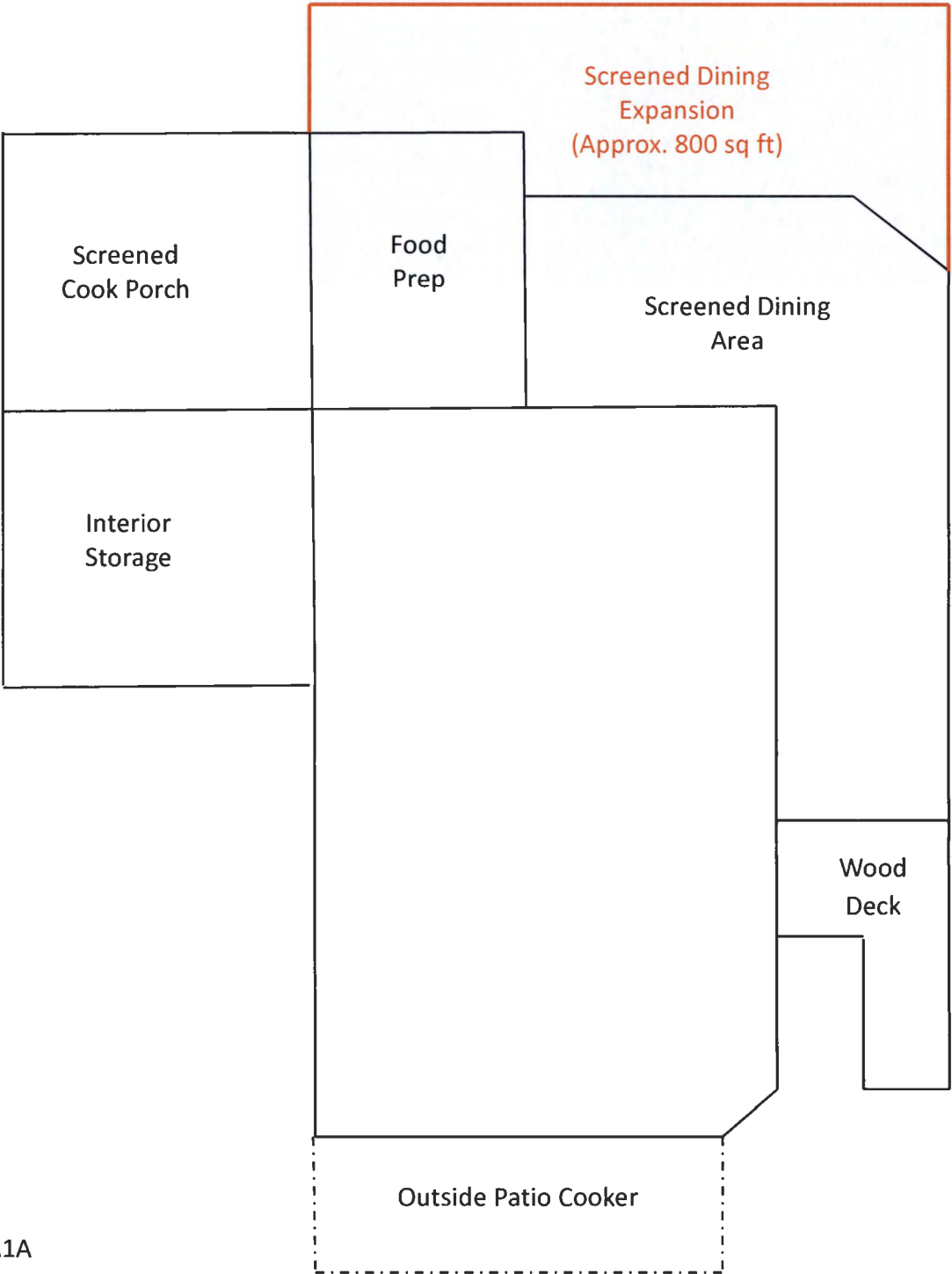
Exhibit 'A'



Intracoastal

North 

Existing Sidewalk



A1A



**FIRST AMENDMENT TO
CAPTAIN'S BAIT, TACKLE & BBQ
LEASE AT BING'S LANDING**

This First Amendment to Lease ("Amendment") is made and entered into as of April 20, 2015 by **FLAGLER COUNTY**, a political subdivision of the State of Florida, located at 1769 E. Moody Blvd., #2, Bunnell, Florida 32110, (the "Lessor"), and **CAPTAIN'S BAIT, TACKLE & BBQ, LLC**, a Florida limited liability company, located at 5862 N. Oceanshore Blvd., Palm Coast, Florida, and whose business address is 113 Island Estates Parkway, Palm Coast, Florida 32137 (the "Lessee").

WITNESSETH:

WHEREAS, the Parties entered into a certain Lease, effective as of the 1st day of September, 2011, for approximately 2080 sq. ft. of building space plus appurtenances thereto located at 5862 N. Oceanshore Blvd., Palm Coast, Florida, at Bing's Landing Park, Flagler County, Florida (the "Leased Premises") as depicted on Exhibit A attached hereto; and

WHEREAS, the Lessee has made significant additional improvements to the Leased Premises totaling over \$100,000 more than anticipated in the original lease amount to include adding approximately 400 sq. ft. of additional enclosed space, deck screening, a cooking hood, pavers; and

WHEREAS, Allowing the lease period to extend at the Lessee's option will ensure the Lessee can amortize the additional funds expended on improving the facility.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the Parties hereby agree to amend the original lease sections as follows:

Section 1. Property. Lessor hereby leases to Lessee approximately 2,080 square feet of building space, to include the existing attached porch area, plus two adjoining building additions (38ft by 20ft and 15ft by 20ft) plus an expanded 550 sq. ft. deck area and front open area facing A1A), all shown on Exhibit A (as amended), located at 5862 N. Oceanshore Blvd., Palm Coast, Florida at Bing's Landing Park, Flagler County, Florida (the "Leased Premises").

Section 2. Term. This Lease shall be for a term of ten (10) years beginning on September 1, 2011, and ending on August 31, 2021, with an option to renew for one (1) additional five (5) year term at Lessee's option. If Lessee decides to renew for the additional five (5) year term, Lessee shall give 180 days written notice to Lessor prior to the expiration of the original ten (10) year term. If Lessee exercises its renewal option

described above, then at the end of this fifteen (15) year period, this Lease may be renewed for an additional five (5) year term, upon the mutual agreement of both parties.

Exhibit A. Exhibit A shall be amended as shown (attached).

Section 3. Terms and Conditions Remain. All other terms and conditions of the Original Lease remain in full force and effect.

APPROVED by the Board of County Commissioners of Flagler County on the 20th day of April, 2015.

ATTEST:


Gail Wadsworth, Clerk of the Circuit
Court and Comptroller

**FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS**


Frank J. Meeker, Chairman

Approved As To Form:

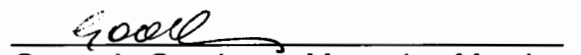

Albert Haddad, County Attorney

CAPTAIN'S BAIT TACKLE & BBQ, LLC
A Florida limited liability company

ATTEST:


Witness Signature

CHRISTIE L. MAYER
Printed Name


Grace A. Goodman, Managing Member

Witness Signature

Printed Name

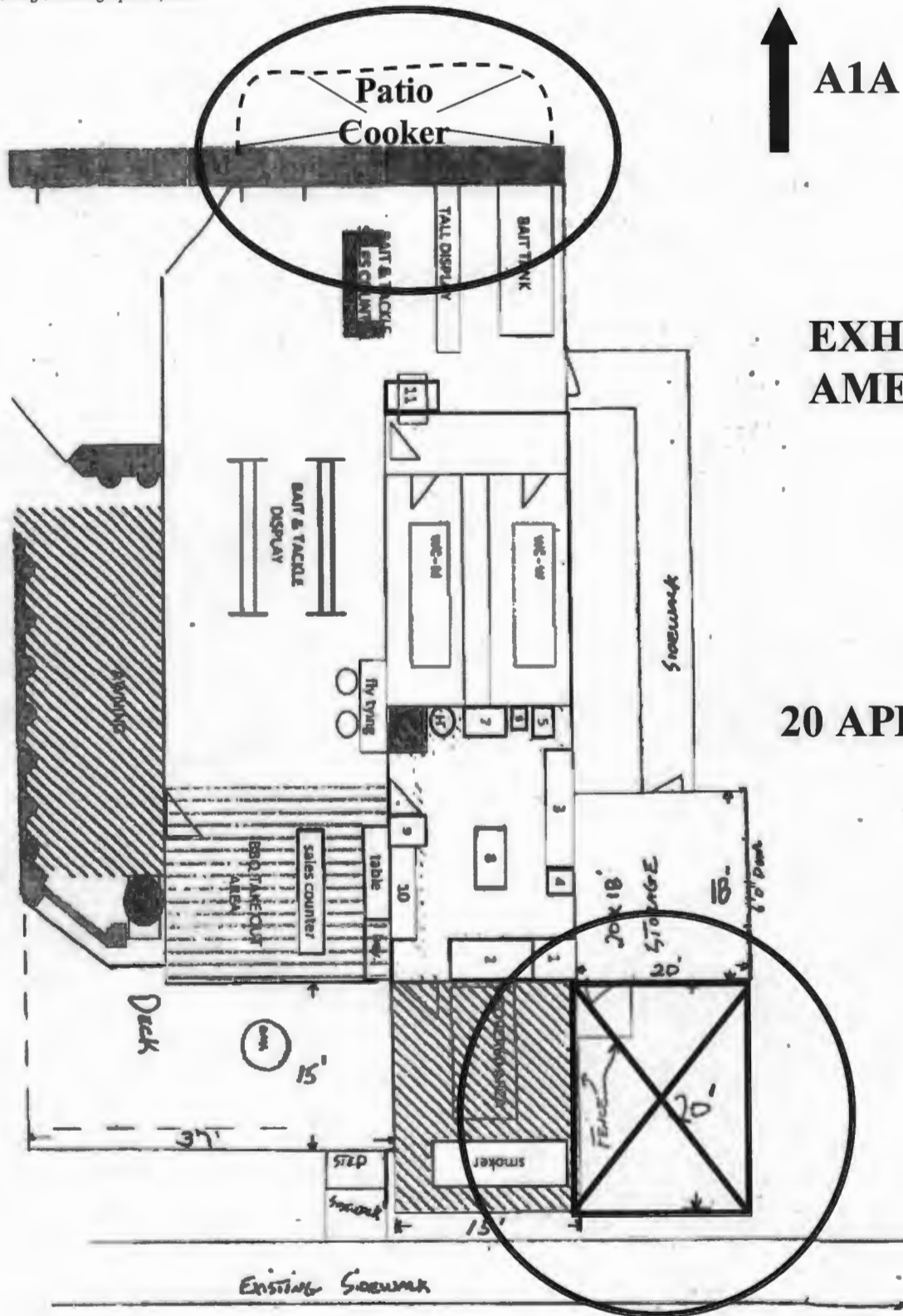
STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 28 day of April, 2015, by Grace Goodman, Managing Member of Captain's Bait Tackle & BBQ, LLC on behalf of the company. She is personally known to me or has produced a driver's license as identification.


Notary Public

Printed Name





A1A

EXHIBIT A
AMENDED

20 APRIL 2015

NORTH

INTRACOASTAL

**LEASE AGREEMENT BETWEEN
FLAGLER COUNTY, FLORIDA
AND
CAPTAIN'S BAIT, TACKLE & BBQ, LLC**

This Lease Agreement ("Lease") is made by and between **FLAGLER COUNTY**, a political subdivision of the State of Florida, located at 1769 E. Moody Blvd., #2, Bunnell, Florida 32110, (the "Lessor"), and **CAPTAIN'S BAIT, TACKLE & BBQ, LLC**, a Florida limited liability company, located at 5862 N. Oceanshore Blvd., Palm Coast, Florida, and whose business address is 113 Island Estates Parkway, Palm Coast, Florida 32137 (the "Lessee"), in consideration of the mutual terms and conditions of this Lease, effective as of the 1st day of September, 2011, hereby agree as follows:

Section 1. Property. Lessor hereby leases to Lessee approximately 2080 square feet of building space, to include the existing attached porch area, plus two adjoining building additions (18ft by 20ft and 15ft by 20ft) plus an expanded 550 s.f. deck area, all shown on Exhibit A located at 5862 N. Oceanshore Blvd., Palm Coast, Florida, at Bings Landing Park, Flagler County, Florida (the "Leased Premises").

Section 2. Use of the Leased Premises. Lessee may use the Leased Premises for a bait and tackle shop and concession operation including, but subject to the limitations contained herein: packaged food and beverage sales, concession sundries, camping, boating, and fishing supplies, live and frozen bait sales, kayak and canoe rentals, fishing and promotional apparel, bike rentals, ice, cigarettes, and similarly related items for public sale. Rentals shall be limited to bikes, canoes and kayaks unless otherwise approved by the County. The Lessee shall also be permitted to have a BBQ cooker, firewood, and related items outdoors and on the leased premises as shown in Exhibit A, which shall be used to produce and sell carryout food from the building for consumption on the Leased Premises, elsewhere within the park, or off the park



property. In addition in this outside area the applicant shall be permitted to store safety vests, paddles, bikes, kayaks/canoes, and similar type items. However, the entire outside area shall be screened from view as provided for herein and may be covered at the discretion of the Lessee. Other uses may include such things as pavilion usage and special events such as fishing tournaments and live entertainment/ music and shall be handled like any other such requests in accordance with the rules and regulations of Flagler County that may exist at the time the pavilion usage or special event is proposed to occur. In addition, any modification of the use of the Leased Premises as herein described shall only be by the express written consent of the Lessor, which consent shall not be unreasonably withheld provided, however, that any subsequent modification shall be consistent with the uses and conditions stated in this Lease. Lessee acknowledges that Bings Landing Park is a unique environmental, recreational and historical park facility that: is located on the A1A National Scenic Byway; is part of the Flagler County Coastal Greenway; is within the National Estuarine Research Reserve of the United States; includes historical resources that are listed on the National Register of Historic Places; and has received national and state awards for its historical, environmental, and scenic qualities. Lessee acknowledges that Lessor has achieved these characteristics and attributes with substantial investments of its funds and staff, numerous grants from the State of Florida and the federal government, and broad based volunteerism from its citizens and civic groups. Lessee further acknowledges that it will operate its facilities and services to the public in recognition of and in respect for these attributes and the park's importance to the citizens of Flagler County and the State of Florida, and accordingly will not compromise or harm the quality or reputation of this unique park or its resources. Lessor desires that Lessee be free to utilize the attributes and qualities of the park in its promotion of its business interests and in its service to the public.



Section 3. Term. This Lease shall be for a term of five (5) years beginning on September 1, 2011, and ending on August 31, 2016 with an option to renew for one (1) additional five (5) year period at Lessee's option. If Lessee decides to renew for an additional five (5) year period, Lessee shall give 180 days written notice to Lessor prior to the expiration of the initial five (5) year period. If Lessee exercises its renewal options described above, then at the end of this ten (10) year period this Lease may be renewed for an additional five (5) year period upon the mutual agreement of both parties.

Section 4. Rent. Lessee shall pay the Lessor as base rent for the Leased Premises the amount of \$500 per month, plus applicable state sales tax. Payments shall be due no later than the fifteenth (15th) day of each month until termination of the Lease. The monthly rental fee shall increase by forty dollars (\$40) on each annual anniversary of this Lease for the term hereof and for any renewal thereof.

In addition to the rent specified above, Lessee shall be responsible for payment of all utility fees and deposits for water, wastewater and electricity to the extent these utilities are separately metered for the Leased Premises and the uses occurring thereon. In the event that any of the above utilities are not separately metered for the Leased Premises then these utilities shall be the responsibility of the Lessor unless otherwise agreed to by the parties in writing.

Section 5. Security Deposit. Lessee shall deposit with Lessor the amount of \$1,000.00 in the form of a check, which must be delivered upon the execution of this Lease. This security deposit shall be forfeited upon Lessee's failure to perform all the terms, covenants, and conditions of this Lease, including any repair or maintenance responsibility. Lessor shall have the right, but not the obligation, to apply all or any part of the said deposit to cure any default of Lessee, and if the Lessor does so, Lessee shall, upon demand, deposit with Lessor the amount necessary so that Lessor shall at all times have on hand the full deposit during the term of this



Lease and any renewals thereof. Lessee's failure to pay the Lessor a sufficient amount to restore the security deposit to the original sum deposited within seven (7) calendar days after receipt of demand therefor shall constitute a breach of this Lease. No interest shall be payable by Lessor to Lessee on the security deposit. Should Lessee comply with all of the terms, covenants, and conditions and promptly pays all of the rental installments as they become due, and all other sums payable to Lessor by Lessee hereunder, the security deposit shall be returned to the Lessee at the end of the term of this Lease, or any renewal period thereof, after Lessee has vacated the Leased Premises in a condition reasonably acceptable to Lessor, ordinary wear and tear excepted.

Section 6. Late Charge. Ten (10) calendar days after each rental payment is due, there will be a late charge of five percent (5%) assessed on all unpaid amounts which are due and payable by the Lessee. Such late charge shall be assessed at five percent (5%) per month for each month the rental amount is overdue subject to the maximum annual rate of interest under Florida law.

Section 7. Days/Hours of Operation. Lessee is not authorized to operate any business on the Leased Premises outside of the scope of Section 2 of this Lease without written authorization from Lessor. Lessee shall operate and be open the following minimum hours during the term of this Lease and any renewals thereof:

- April through November seven (7) days a week from 6:30 a.m. to 7:00 p.m.
- December through March seven (7) days week from 7:00 a.m. to 4:00 p.m.
- Lessee shall have the option to extend or modify such hours upon the approval by the County's Director of General Services provided such hours do not lessen by more than 25% overall and that such hours don't extend before 5 a.m., nor later than 11 p.m.



Operations may be closed for Thanksgiving and December 24 and December 25 and one week for vacation each year as determined by the Lessee. Additional times may be approved by the General Services Director. Such closures shall be noticed to the public one week in advance, whenever possible.

Section 8. Taxes. Lessee shall be responsible for the payment of any and all taxes levied or assessed upon any personal property, fixtures, improvements, located on the Leased Premises and owned by Lessee, sales taxes on goods sold, rented, or commissioned by Lessee on the Leased Premises, and all leasehold and possessory interest taxes levied or assessed by any taxing authority. Unless otherwise specified herein, the payment of the taxes described above shall be paid directly to the appropriate taxing authority by Lessee. Within ten (10) days of receipt of written demand of Lessor, the Lessee shall provide to Lessor proof of payment of the taxes specified above, with the exception of the sales tax due on the rent payments, which shall be remitted monthly along with each monthly rental payment when it becomes due.

Section 9. Lessee and Lessor Alterations and Improvements. To implement the uses contained in Section 2, the Lessee shall at its sole cost and expense make any changes, alterations, or improvements that may be necessary for its use of the Leased Premises, with Lessor approval. Lessor approval for minor, nonstructural work not requiring permits shall be obtained from the County Administrator or his designee in writing. For all other alterations, Lessee must obtain proper permits as well as written approval from the County Administrator or his designee prior to permit application. All changes, alterations, or improvements to the Leased Premises are to be constructed and designed in accordance with the overall scheme for Bings Landing Park and in a workmanlike manner, and should be constructed in compliance with applicable laws, rules, regulations and codes. Any alteration or construction is subject to the Florida Building Code and may be reviewed by the County's Technical Review Committee for



compliance. Lessor approves and consents to the general layout plan for the Leased Premises as conceptually shown in Exhibit A, attached hereto. The Exhibit A conceptual layout plan is not to scale. All equipment, furnishings and fixtures attached to the Leased Premises shall become the property of County at the termination of the lease.

Notwithstanding the provisions in the foregoing paragraph regarding Lessor approval, Lessor hereby consents and permits Lessee to make the following improvements to the Leased Premises:

- Installation of floor tile on the interior of the building.
- Installation of wall food panels in the prep and storage area as depicted on the site plan.
- Improve and build out back room, including the installation or improvement of new or existing plumbing, installation of an HVAC unit, and upgrade the onsite electric to a 600 AMP system, if necessary.
- Installation of a manual retractable awning on the porch area as depicted on the site plan subject to approval of the type and appearance by the County.
- Installation of an overhang or cover for the BBQ cooker and firewood to be used therein, subject to approval of the material type and appearance by the County.
- Installation of fencing on the west side of the building (reference attachment A) for the security of Lessee's equipment and for screening as required herein. Such fence shall be at least 6ft high with a minimal opening at the ground, be of a solid material, be opaque and shall fully conceal the contents of the cooker, wood, bike storage, paddles, safety vests and other items in the outdoor area. It shall fully enclose any outside area not otherwise blocked by a building and shall contain a gate.



- Installation of a wall or other divider for the live bait tanks to ensure proper separation between the bait and tackle portion of Lessee's operation and the food prep, storage and storage areas.
- Installation of minimum six inch (6") rain gutters with a leaf guard along the roof on the north side of the building.
- Installation of counters for consumption of food items on the porch area.
- Installation and use of space heaters and misting fans.
- Replacement of any light fixtures on the Leased Premises subject to approval of the type of fixture and appearance by the County.
- Replacement of vanities in the bathrooms on the premises.
- Installation of an exhaust vent.
- Installation of a concrete slab or pavers for the placement of the BBQ cooker. The BBQ cooker must be placed at least ten feet (10') from the roof line of the main building.
- Installation of signage per Section 25 herein.
- Installation of any needed grease traps, grease holding tanks, and septic tank upgrades necessary to support the uses proposed by the Lessee.
- Installation of any needed trash and recycling receptacles on the Leased Premises and dumpster with a location, screening and pad construction acceptable to the County outside of the Leased Premises.

The foregoing improvements are subject to Lessor's review of any tree impacts of proposed improvements. Lessor may require a modification of the improvement to avoid tree impacts. Lessor in its sole discretion may relocate sable palms within the Park to avoid impacts.



The Lessor shall complete the construction of the improvements listed below. The final location and design of the improvements shall be solely at the discretion of the Lessor but shall be generally planned with and in conjunction with and for primary use by the Lessee

- A bicycle stand (s) within three months.
- A kayak/canoe stand(s) within three months.
- Replacement of all windows on the Leased Premises within thirty months.

In meeting the Lessee's requirements above, should the Lessee agree to upgrade the outdoor area to a hardened building extension with the same roof line and at least half of the additional area enclosed, the Lessor will install the addition, other building improvements listed above, and install the grease separation system provided the Lessee shall pay for design, permits, and material costs to construct the improvements. The Lessor shall not do any signage, retractable awning, septic tank improvements (if necessary) and any other improvements the Lessor determines it is unwilling to construct.

Section 10. Construction Liens. The Leased Premises shall not be subject to any construction lien, and not less than five (5) calendar days before any construction material or services are provided to Lessee, Lessee shall post on the Lease Premises and record a notice of non-responsibility of Lessor, giving notice that Lessor is not responsible for payment of such material or services and that the Leased Premises subject to this Lease, as public property, are not subject to construction liens. If, because of Lessee's act or omission, any construction lien, claim of lien, or professional lien is recorded in the Public Records of Flagler County, Florida, pursuant to Chapter 713, Florida Statutes, or any amended or successor statute, encumbering any portion of the Leased Premises or Bings Landing Park, then Lessee shall at its own expense and cost cause said liens to be discharged, released or satisfied within fifteen (15) calendar days of receipt of notice of the recording of any such lien.



Section 11. Repairs and Maintenance Generally. Lessee shall keep the Leased Premises and all equipment, fixtures, and furnishings located thereon in good condition and repair. Lessee acknowledges and agrees to implement adequate measures and exercise reasonable diligence to collect and control trash and refuse generated by its use of the Leased Premises so that such trash and refuse is properly placed in receptacles to be placed on the Leased Premises and shall secure and install a dumpster from the local waste management provider at a location mutually agreeable to the parties and properly screened as provided herein for outdoor storage. In addition, Lessee agrees that its food service operations will result in the generation of grease and shall ensure that proper grease traps are in place and in working order, shall ensure at its sole cost and expense that all septic tanks serving the Leased Premises are pumped out, and shall secure a proper receptacle or holding tank, as may be required, for grease to be serviced and pumped out by the appropriate waste management provider. Lessor is responsible for maintaining the trees and the grounds, exterior building maintenance, including, without limitation the roof, except for improvements or fixtures made or installed by the Lessee. Lessor shall also be responsible to maintain and repair any water heaters and HVAC units located on or serving the Leased Premises.

Section 12. Compliance with Laws. Lessee shall, at its own cost and expense, comply with all applicable federal, state and local laws, and rules and regulations pertaining to Lessee's use of the Leased Premises, as they may be amended from time to time.

Section 13. Peaceful Possession and Quiet Enjoyment. The Lessee and its customers shall have the right of ingress, egress, and of free access to the Leased Premises during the times the park is open to the public and the Lessor guarantees the peaceful possession and quiet enjoyment thereof to the extent possible with a public park facility and the special



events that will occur at the park from time to time. Lessor reserves the right to designate short-term vehicle parking spaces and boat docking spaces for use by Lessee's customers.

Section 14. Prohibited Activities. The following operations, activities and uses are specifically prohibited on the Leased Premises:

A. The keeping or storage of flammable liquids inside the Leased Premises.

B. The keeping or storage of corrosive or poisonous chemicals or chemical compounds other than normal household and concession cleaning supplies. No corrosive or poisonous chemicals or chemical compounds other than normal household and concession cleaning supplies shall be stored, handled or dispensed in any manner.

C. Any improvements to or use of the property that unreasonably interferes with the use or enjoyment of adjacent or nearby properties leased to other tenants by Lessor.

D. Any use of the Leased Premises that would interfere with or adversely affect the operation or maintenance of Bings Landing Park or would otherwise constitute a hazard to the public.

E. The use of the Leased Premises in violation of any applicable federal, state or local law or regulation.

F. The dumping, storage, disposal, or incineration of junk, sewage, garbage or refuse.

G. Smelting.

H. The storage of any motor vehicles, equipment, or machinery not directly used by Lessee in its operations on the Leased Premises.

I. No animals of any kind shall be kept on the site, except that seeing-eye dogs are specifically permitted on site.

Section 15. Assignment or Subletting. Lessee may not sublet all or any part of the Leased Premises or assign this Lease without the express written consent of the Lessor. The



assignment or sublease shall incorporate and be subject to all of the provisions in this Lease. No assignment or sublease shall relieve the Lessee of its obligation to pay the rent provided for in this Lease in the event of a default by the sublessee or assignee unless Lessee is specifically relieved of that obligation in writing by Lessor. Lessee shall send Lessor a copy of the proposed assignment or sublease not less than sixty (60) calendar days prior to its proposed execution and Lessor shall send Lessee notice of its consent or refusal to consent not less than thirty (30) calendar days thereafter. The Lessor may require any approved sublessees or assignees to post an additional security deposit in such sum as the Lessor may in its absolute discretion deem appropriate as a condition to approving any such sublease or assignment.

Section 16. Insurance, Indemnity and Hold Harmless. Lessee shall indemnify and hold harmless Lessor against any and all liability, claims, demands, expenses, fees, fines, penalties, suits, proceedings, actions and costs of actions, including attorneys' fees, paralegal fees, expert witness fees, consultant fees and any other litigation expense of any kind or nature, including those incurred on appeal, arising out of or in any way connected with the use, occupancy, management or control of the Leased Premises, or the act or omission of Lessee or its agents, servants, employees, customers, patrons or invitees, whether on the Leased Premises or elsewhere. Lessee shall at its own expense procure and maintain liability insurance in a form acceptable to the County Administrator and/or Purchasing Manager from an insurer authorized to do business in Florida. This insurance shall have a minimum limit of liability of \$1,000,000 combined single limit for bodily injury, property damage, premises, and operations liability including food liability and liquor law legal liability. All policies shall cover all uses and activities conducted by the Lessee on the Leased Premises.

Lessee shall at its own expense procure and maintain insurance sufficient to repair or replace the Leased Premises and any fixtures or contents belonging to the Lessor which are



damaged as a result of the acts of Lessee, its employees, agents or customers, or by any failure of Lessee to perform its obligations hereunder.

All insurance policies, certificates and renewals shall be delivered to and held by Lessor. All policies shall be endorsed and shall list Flagler County as an additional insured.

The above indemnity provisions shall not apply to damage or liability brought on by a natural disaster, Act of God or other event beyond the control of the Lessee and not related to its operations on the Leased Premises.

Section 17. Nonliability of Lessor to Lessee. Lessor shall not be liable to Lessee, or its agents, representatives, invitees or employees, or any other person, for injury to or death of any of them, or for any damage to any of Lessee's property or loss of revenue caused by any third persons in the maintenance, construction or operation of the concession, its appurtenances, facilities or equipment, or caused by any third persons using the concession or its appurtenances, facilities and equipment, whether the injury, death or damage is due to negligence or not. Third persons, as used in this section, shall include the United States of America and the State of Florida, or any of their agencies, and all other persons.

Section 18. Lease Not A Joint Venture. Nothing contained in this Lease is intended or shall be construed in any way as creating or establishing the relationship of partners or joint venturers between Lessor and Lessee or as constituting either party as the agent or representative of the other party for any purpose or in any manner.

Section 19. Exclusivity. Lessee shall have the exclusive right to sell to the public bait shop items described in its proposal and cooked barbeque at the Park. Additionally, with regard to bike and canoe/kayak rentals the Lessee shall also have exclusive rights to rent same to the public at the Park provided the Lessee is adequately providing these services, as determined solely by the Lessor. The Lessee shall have no other special or exclusive rights to any charter



fishing or eco-tourism service, fishing tournaments, use of park facilities or to hold or control special events. During special events the County may allow other vendors to sell products on the site, but shall generally seek to minimize conflict with the vendor products and specifically barbeque. The public and organizations that rent/use the park shall have the right to continue to bring their food beverages, bait, and other supplies into the park as currently exists today prior to the lease. The Lessor also reserves the right to add additional vendors (Lessees) that do not directly conflict with the exclusive rights above.

Section 20. Defaults. This Lease shall be in default and may be terminated only upon the occurrence of the following events:

A. Failure to pay rent, utilities or applicable taxes. The failure by Lessee to pay Lessor any sum provided for herein when due. Lessee shall be given thirty (30) days written notice within which to cure this default.

B. Violation of terms. Lessee's violation of or failure to perform any term, covenant, or condition of this Lease. Lessee shall be given thirty (30) days written notice within which to cure this default, unless Lessor prescribes a shorter time to Lessee as determined in Lessor's sole discretion that the continued operation for a longer period by Lessee potentially endangers the property of the County or potentially threatens the health and safety of the general public that uses the Park.

C. Insolvency. In the event that Lessee becomes insolvent, bankrupt, or makes an assignment for the benefit of creditors; or the interest of Lessee in the Leased Premises is levied upon or sold upon execution, or becomes vested by operation of law in some other person or entity because of the insolvency of Lessee; or a receiver or trustee is appointed for Lessee.

D. Abandonment. If the Lessee vacates or abandons the Leased Premises, or permits the Leased Premises to remain vacant or abandoned for a period of thirty (30) calendar days or



more, regardless of whether or not rent payments are current. However, Lessor may at its sole discretion consent in writing to the vacation of the Leased Premises for a longer period of time upon terms and conditions set by Lessor.

E. Conviction of a Crime. If the Lessee is convicted of any felony or second or third degree misdemeanor as a result of a jury verdict, nonjury trial, or entry of a plea of guilt or nolo contendere. "Conviction" for purposes of this Lease shall be as defined in Florida Statutes, as amended from time to time.

F. Closure or Failure to Sell Bait – Closure of the facility or failure to offer bait for sale to the general public for more than 30 consecutive days.

Section 21. Remedies for Default. In the event of a default, Lessor shall have the following remedies:

A. Repossession by Lessor. Upon default by Lessee, Lessee's right to possession of the Leased Premises shall terminate without notice or demand by Lessor, and Lessee shall surrender possession to Lessor. Lessee hereby grants to Lessor full and free license to enter the Leased Premises to take possession of the Leased Premises in any lawful manner and to expel Lessee. If Lessee fails to remove its personal property as provided within thirty (30) calendar days after notice, Lessor may dispose of personal property not removed by Lessee. In that case, Lessee is deemed by this Lease to have sold, assigned and transferred to Lessor all of Lessee's right, title and interest in the personal property not removed by Lessee.

B. Damages. In addition to terminating this Lease and retaking possession of the Leased Premises, Lessor may recover all damages and rent accrued or accruing under this Lease or arising out of any breach of this Lease. Lessor may resume possession of the Leased Premises for its own account and recover from Lessee the total rent due under this Lease for the remainder of the term, reduced to present value, or Lessor may resume possession of the Leased



Premises and at its option re-rent it for the remainder of the term for the account of Lessee and recover from Lessee, at the end of the term or at the time any rent becomes due under this Lease, the difference between the rent specified in this Lease and the rent received upon the re-renting of the property.

C. Other remedies. Lessor may pursue all other remedies provided by law or equity for the breach of this Lease. No right or remedy conferred upon or reserved to Lessor in this Lease is intended to be exclusive of any other right or remedy, and each right and remedy shall be cumulative and in addition to any other right or remedy of Lessor under this Lease, now or hereafter existing at law or equity or by statute.

D. Enforcement. In the event that either party must judicially enforce the terms of this Lease the prevailing party shall be entitled to reasonable attorneys' fees, paralegal costs, expert witness fees, consultant fees, and any other litigation expense or cost.

Section 22. Waiver of Default; Effect. The acceptance by Lessor of one or more monthly rental installments after they fall due or after knowledge of any breach by Lessee of this Lease or after the sending of any notice or demand, or any other act or series of acts by Lessor, shall not be deemed or construed as a waiver of Lessor's right to act or as a waiver of any other right given to Lessor under this Lease or as an election not to proceed under the provisions of this Lease. The failure by Lessor to collect or demand any sums due under this Lease shall not relieve Lessee's obligation to pay those sums when demanded.

Section 23. Notices. Any notices required by this Lease, or which Lessor or Lessee may wish to serve on the other, shall be in writing and shall be deemed served, whether or not receipt is admitted, when delivered in person to an agent or employee of the party at its place of business or when deposited in the U.S. Mail, postage prepaid, return receipt requested, addressed to the Lessor as follows:



Flagler County Administrator
1769 E. Moody Blvd. #2, Suite 302
Bunnell, FL 32110
And As to the Lessee, the following address:

Director, General Services
1769 E. Moody Blvd., Bldg #5
Bunnell, FL 32110

Michael Goodman
113 Island Estates Parkway
Palm Coast, Florida 32137

Jay W. Livingston, Esq.
Livingston Wolverton & Sword, PA
20 Airport Rd, Suite A
Palm Coast, FL 32164

Section 24. Inspection of Leased Premises. Lessee shall allow Lessor's authorized representative access to the Leased Premises at all reasonable hours for the purpose of examining and inspecting said Leased Premises for the purposes necessary, incidental to, or connected with the performance of Lessee's obligations under this Lease or in the exercise of its governmental functions with 24 hours notice.

Section 25. Signs. Lessee shall be permitted to install up to two (2) signs on the building and one (1) sign at the main entranceway to the concession and one (1) sign by the water way subject to the design/appearance approval of the Lessor and compliance with the Flagler County Land Development Code, Article VII, and other provisions of the Flagler County Code, as amended and/or supplemented from time to time. The approval process includes review by the A1A Scenic Pride with final approval by the Lessor. The design, permitting, installation and maintenance of any sign shall be at the sole expense of Lessee and shall substantially follow the conceptual theme and style of the County proposed park signage.

Section 26. Beverage License. The Lessee shall be permitted to apply for and secure a 2COP license from the Florida Division of Alcoholic Beverages and Tobacco for the sale and consumption of beer and wine on the Leased Premises. Notwithstanding the scope of such license, Lessee shall be limited to the sale and consumption of beer and wine and under no circumstances will the sale of liquor or other alcoholic beverages be permitted on the Leased



Premises. Such sales and consumption shall be restricted to the Leased Premises, unless otherwise permitted through the County's normal park permit process for onsite consumption.

Section 27. Effect on Prior Agreements. This Lease supersedes all prior agreements, if any, between the parties regarding the leasing of the Leased Premises and, as of the date of this Lease, those prior agreements shall be of no force or effect.

Section 28. Construction of Lease. This Lease shall be construed under the laws of the State of Florida and Flagler County Ordinances and any litigation regarding this Lease shall be in the County or Circuit Court of Flagler County, Florida.

Section 29. Short Form of Lease. Either party may prepare for execution a short form of this Lease for recording in the public records. The costs of recording the short form Lease shall be paid by the party desiring to record the short form.

Section 30. Amendments to Lease. This Lease may be amended only by written instrument executed with the same formalities as this Lease.

Section 31. Property Rights. Lessee agrees that no subordination or use of the Lessee's interest as collateral will be permitted without the Lessor's express written permission, which is in the Lessor's sole and absolute discretion.

Section 32. Parties. Except as otherwise expressly provided, the covenants, conditions, and agreements contained in this Lease shall bind and inure to the benefit of the Lessor and Lessee and their respective heirs, successors, administrators, and assigns.



Date of Approval: 15 August, 2011


ATTEST:


Gail Wadsworth, Clerk and Ex Officio
Clerk to the Board

FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS



Alan Peterson, Chairman

Approved as to form:

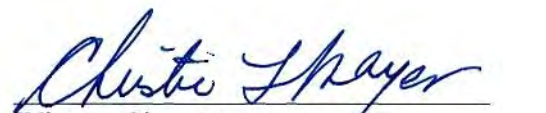

Albert Haled
County Attorney

ATTEST:

CAPTAIN'S BAIT TACKLE & BBQ, LLC
A Florida limited liability company


Witness Signature
Andrew Johnson
Printed name


Grace A. Goodman, Manager


Witness Signature
CHRISTIE L. MAYER
Printed Name

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 23rd day of August 2011, by Grace A. Goodman, the Manager of Captain's Bait Tackle & BBQ, LLC on behalf of the company. She is personally known to me or has produced a driver's license as identification.



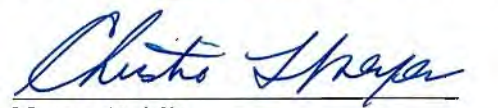
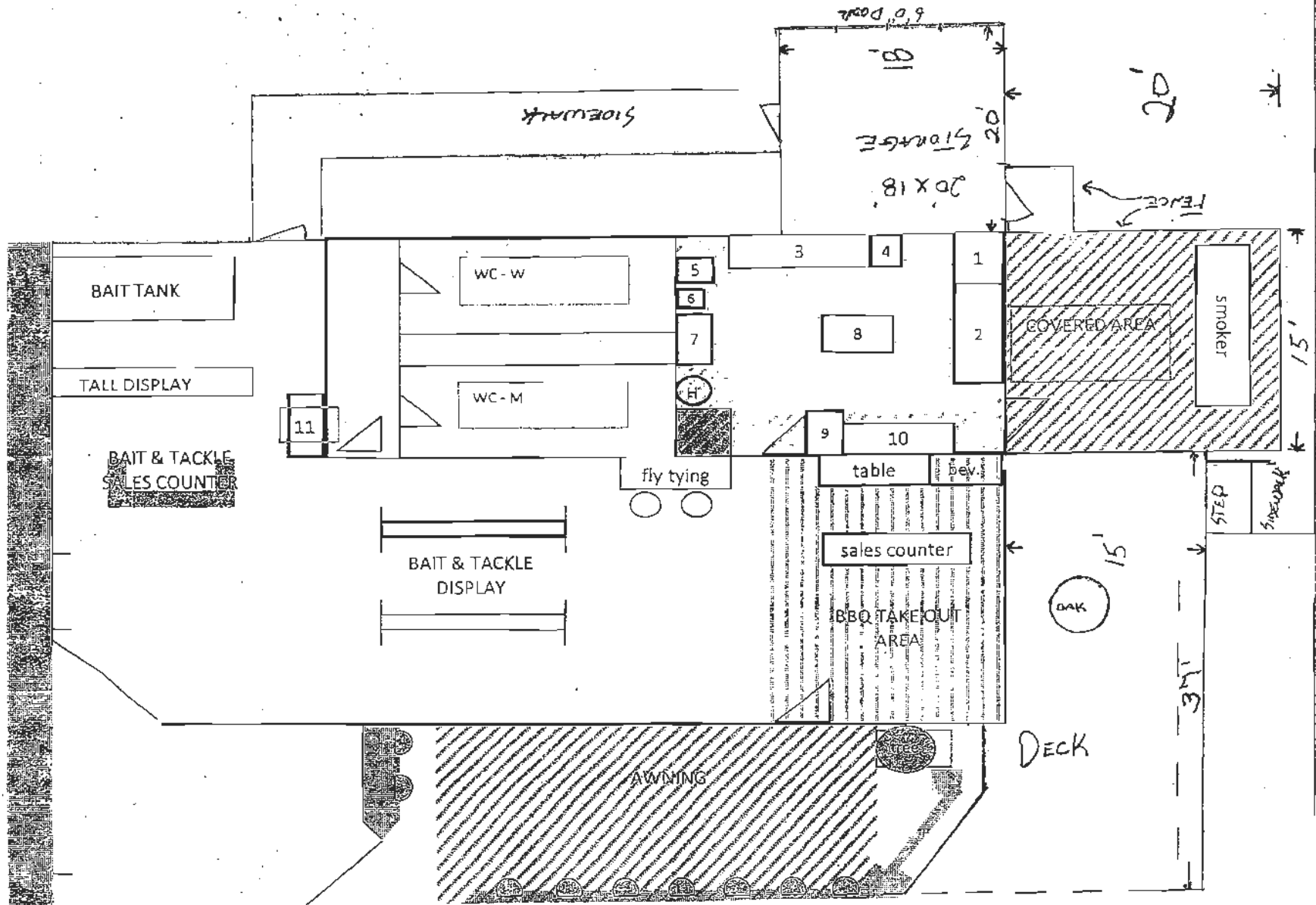

Notary Public
CHRISTIE L. MAYER
Printed



Exhibit A



EXISTING SIDEWALK

[Handwritten signature]



Captain's Bait, Tackle & BBQ, LLC

Lease History and Information

LEASE CHRONOLOGY

2011	RFP	March 12, 2011
2011	Initial Lease	Sept. 1, 2011
2015	1st Amendment	April 20, 2015
2016	2nd Amendment	June 6, 2016

INITIAL LEASE (2011)

1. **Space:** **3,290 sf** (total)
 - a. Building **2,080 sf**
 - b. Deck **500 sf**
 - c. Addition #2 **300 sf**
 - d. Addition #1 **360 sf**
2. **Use:**
 - a. Packaged Food & Bev Sales
 - b. Concession Sundries
 - c. Camping, Boating, & Fishing Supplies
 - d. Live and Frozen Bait Sales
 - e. Fishing & Promo Apparel
 - f. Kayak and Canoe Rentals
 - g. Bike Rentals
 - h. Ice
 - i. Cigarettes
 - j. Similarly Related Items for public sale

BBQ

- Produce and Sell Carryout Food (Includes Onsite Dining)

Rentals

- Limited to Bikes, Canoes, & Kayaks (Unless otherwise approved by the County)

3. **Term:** **5 yrs.** (Total with Renewals = 15 yrs.)
 - a. **Initial** **5 yrs.** (09/01/11 – 08/31/16)
 - b. **1st Renewal** **5 yrs.** (thru 2021)
 - c. **Last Renewal** **5 yrs.** (thru 2026)

4. **Rent:** **\$ 500** (Total)
 - **Increase** **\$40** ea. Annual Anniversary
 - **2018** **\$ 780** (est. monthly rent)
 - **Other:** Utility Fees and Deposits (separately metered)



Captain's Bait, Tackle & BBQ, LLC

Lease Information

1st AMENDMENT (2015)

1. **Space:** **3,690 sf** (New Total: 3,290 initial + 400 additional = 3,690 sf)
Additions:
 - 20' x 20' Area **400 sf** (added by Lessee)
 - Patio Cooker/Other Areas sf not determined)
2. **Use:** No Additional Uses Added
3. **Term:** **10 yrs.** (total with Renewals = 20 yrs.)
 - a. Amended **10 yrs.** (09/01/11 – 08/31/21)
 - b. Renewal **5 yrs.** (thru 2026)
 - c. Add'l Renewal **5 yrs.** (thru 2031)
4. **Rent:** No new Rent provisions
 - \$ 660 (Total for 2015 – Initial \$500 + \$40 annual increase)

2nd AMENDMENT (2016)

1. **Space:** **4,490 sf** (New Total: 3,690 initial + 800 expansion = 3,690 sf)
 - 3,140 sf (Does not include Patio Cooker/Other Outside areas)
 - Screen Dining Expansion **800 sf**
(Will not increase 100 person seating capacity)
2. **Use:** No Additional Uses Added
3. **Term:** No Changes from Amendment #1
4. **Rent:** No new Rent provisions
 - \$ 700 (Total for 2016 – Initial \$500 + \$40 annual increase)



FLAGLER COUNTY
ENVIRONMENTALLY SENSITIVE LANDS
LAND ACQUISITION MANUAL

LAND ACQUISITION MANUAL

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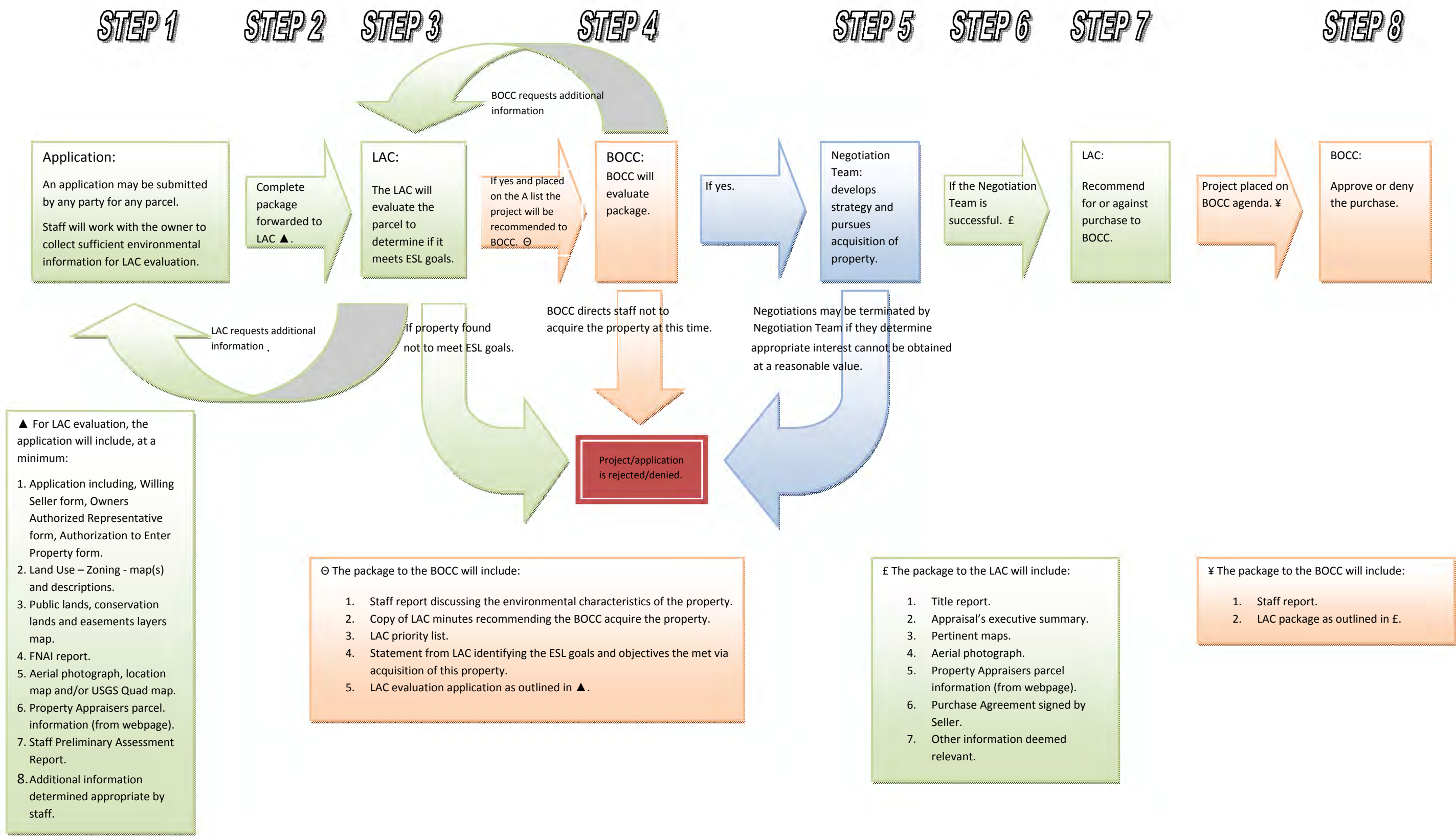
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LAND ACQUISITION MANUAL

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Environmentally Sensitive Lands Project Flowchart



CHAPTER ONE

GLOSSARY OF TERMS

“A list” - projects that the LAC has recommended the BOCC consider acquiring.

Applicant – one who submits a property for consideration by the Environmentally Sensitive Lands program.

Appraisal – a report prepared by a professional appraiser that provides an estimate of the fair market value of the property or conservation easement.

“B list” – projects that the LAC has determined meets minimal ESL criteria but are not recommended for acquisition at this time.

BOCC – Board of County Commissioners.

Conservation Easement – a legal agreement between a landowner and a qualified organization that restricts future activities on the land to protect its conservation values.

Environmentally Sensitive Lands (ESL) – include creek, stream or river banks, major drainage ways, beaches, shorelines, viable wetlands, floodplains, water resource lands, poor soil areas not suitable for development, wellhead protection areas, prime groundwater recharge areas, parks and recreation areas, and natural systems that contribute to greenway corridors and wildlife habitat.

Fee Simple Ownership – full and unconditional ownership of land, with the right to use and sell during the owners lifetime, and then to pass on to one’s heirs.

Land Acquisition Committee (LAC) – an advisory board to the Board of County Commissioners on issues involving the acquisition and management of environmentally sensitive lands.

Land Acquisition Manual – the single document which consolidates and combines the various policies, standards, and procedures relating to environmentally sensitive land acquisition activities. It is the policy document for the implementation of the environmentally sensitive lands program and implements the Flagler County Code for environmental land acquisitions.

Market Value – the price that a willing buyer would pay a willing seller for a property offered for sale on the open market, when both have reasonable knowledge of all relevant facts and are not under pressure to buy or sell.

Maximum Allowable Offer – the maximum offer the Negotiation Team may forward for the acquisition of a parcel.

Negotiation Team - shall consist of the County Administrator or his/her designee, County Attorney or his/her designee, and the staff LAC liaison. The Team may invite other parties that are financially participating on the project or representatives of a municipality if the project falls within their boundary.

Option – a temporary interest in real estate that a landowner grants to a buyer, giving the buyer the right to purchase real estate at a specified price by a specified date, but which the buyer has no obligation to exercise.

Primary Objectives – the paramount priorities for the use of ESL funds. A project application must be found to have met three of these objectives to be placed on the A or B lists.

Project – a defined area considered for the ESL program. It may consist of an individual or multiple parcels.

Public Access and Stewardship Funds - authorized via Resolution 2008-53. Allows the equivalent of up to 10% of the purchase price of a property to be utilized for public access improvements, passive recreational site improvements, natural community restoration and habitat enhancement.

Secondary Objectives – utilized as part of the LAC's decision making process in its duty to determine if a project should be listed on the A or B lists, and where a project placed on the A list should be ranked.

Title report – a report prepared by a title company or attorney that contains documentation of the quality of ownership held by a particular person or entity. It identifies any encumbrances on the property and any partial ownership interests.



Aerial View of Lake Disston

CHAPTER TWO

INTRODUCTION

A proper balance of development and the conservation of land has the potential to provide positive economic impacts and improve a community's quality of life. In addition to the intangible quality of life factors, studies have shown that taxable properties that are adjacent to open space, greenways, and trails often increase in value and generate greater overall revenue for a community. According to surveys, homes and properties located near open space, greenways and trails commonly sell for more than similar homes or properties in other areas.

Greenways and trails, in particular, often attract new business and help retain existing businesses based in part on the environmental, recreational and cultural/historic amenities that are provided. In addition, greenways and open spaces often attract new residential and commercial investors who find it profitable to incorporate environmentally sensitive characteristics that are "in sync" with the surrounding conservation and recreation land uses.

Those who use and enjoy open spaces, parks and trails create a demand for services such as overnight accommodations, rental facilities, restaurants, outfitters, and other enterprises benefiting the local economy. In addition, these sensitive lands perform free services for local residents in the form of flood control, filtering our water resources, recharging our aquifer, cleaning our air, and providing open space and recreational opportunities which are generally seen as improvements to the "quality of life" that enhances a community.

Over the years, Flagler County's Environmentally Sensitive Lands (ESL) program has acquired outright over 4,500 acres of environmentally sensitive land. In addition, this program has played a vital role in the over 4,500 acres of public land in Flagler County by steering outside state and federal funds into Flagler County. The majority of the County's acquisitions has been leveraging funds from other state acquisition programs. Funding from state acquisition programs has brought new money into the County and made it possible to purchase many of the lands now protected and used for conservation and recreation in the County. As a result of these efforts, up to the year 2009, Flagler County has succeeded in more than doubling every dollar spent on ESL acquisitions from these alternative funding sources.

This sets the stage for the continued evolution of the ESL land acquisition program.

CHAPTER THREE

BACKGROUND

The Environmentally Sensitive Lands program has existed in Flagler County since 1988 to use funding from voter approved ad valorem taxes to acquire environmentally sensitive lands, recreation areas and water recharge areas. The term environmentally sensitive lands means different things to different agencies and people.

Florida Administrative Code 9J-5.003 defines the term as follows:

(41) "Environmentally Sensitive Lands" means areas of land or water which are determined necessary by the local government, based on locally determined criteria, to conserve or protect natural habitats and ecological systems. Nothing in this definition shall be construed to prohibit silvicultural operations which employ the Florida Department of Agriculture and Consumer Affairs Best Management Practices as revised in 1993.

Flagler County has composed and modified a local definition in various documents. The term is first defined in Resolution 88-46 as including but not limited to water recharge areas and lands for parks and recreation. It was expanded in Resolution 2008-53 to include water resource lands, parks and recreation areas, and the preservation of wildlife habitat. Finally the Flagler County Comprehensive Plan's Conservation Element contains the following:

Policy 11-3: Flagler County's environmentally sensitive lands shall include creek, stream or river banks, major drainage ways, beaches, shorelines, viable wetlands, floodplains, poor soil areas not suitable for development, wellhead protection areas, prime groundwater recharge areas, and natural systems that contribute to greenway corridors. The prime groundwater recharge areas are to be determined by the SJRWMD per Chapter 373.0395 (3) Florida Statutes.

With an understanding of the basis for the County's Environmentally Sensitive Lands Program the County has identified four primary elements necessary to carry out a transparent and effective ESL land acquisition program. The four elements are:

- Roles (Chapter 4, page 8)
- Program objectives (Chapter 5, page 9)
- Processes (Chapter 6, page 12)
- Applications (Appendix 4, page 32)

CHAPTER FOUR

COMMITTEE ROLE

The Land Acquisition Committee (LAC) serves as an advisory board to the Board of County Commissioners on issues involving the acquisition and management of environmentally sensitive lands.

The LAC is composed of seven members serving three year, staggered terms. Members are appointed by the BOCC after a review of the applicant's experience and geographic residence. When selecting members the BOCC will strive to balance the LAC's membership experience. Preferred consideration will be given to the applicants with relevant experience and expertise in planning, real estate and biology or geo-sciences. The BOCC will also consider an applicant's geographic residence in Flagler County in order to ensure the Committee represents all areas of the County.

The LAC duties are generally summarized as follows:

- Receive and review projects nominated for purchase to determine whether they comply with the standards and criteria for acquisition. Upon determination by the Committee that nominated lands meet the criteria for acquisition, it shall rank specific parcels for priority purchase based upon the standards and criteria as approved by the County Commission.
- Receive and review planned improvements proposed to be funded with Public Access and Stewardship funds on previously acquired ESL properties.

The LAC makes recommendations to the BOCC regarding projects that should be acquired and the use of the Public Access and Stewardship funds.

Scope of review/recommendation

The LAC has five decision points throughout a land acquisition project.

1. Determine if a project meets the objectives for acquisition by the ESL program.
2. Rank the project in order of priority for acquisition. (A list is for projects recommended for acquisition, B list is for projects that meet minimal ESL criteria but not recommended for acquisition at this time.)
3. Recommend to the BOCC authorize the Negotiation Team to negotiate the purchase of a project (placing projects on the A list).
4. Recommend to the BOCC a position of for or against a purchase after the Negotiation Team has reached agreement with a property owner.
5. Recommend to the BOCC a position of for or against the proposed use of Public Access and Stewardship Funds to the BOCC.

CHAPTER FIVE

PROGRAM OBJECTIVES

Over the years Flagler County has provided a variety of guidance for the use of ESL funds via the Comprehensive Plan, previous program manuals, and the County's Strategic Plan. In order to apply this guidance for implementation, the Board of County Commissioners, by adoption of this manual, establishes one set of program objectives to be utilized by the Land Acquisition Committee and Staff in the implementation of program tasks. The ESL program through these objectives will also serve an important role in implementing the BOCC's vision for Flagler County.

These program objectives implement the Comprehensive Plan's Goals, Objectives and Policies and promote the County's current policies for sustainable patterns of development. They also support the County's efforts to further the Coastal Greenway program, implement Low Impact Development in sensitive environmental areas and the provision of environmental infrastructure for eco-tourism and a higher quality of life. Together, with sustainable development policies, these objectives will serve to ensure that Flagler County continues to grow in a manner that respects the importance of both urban and rural communities within the County by designating suitable locations for urban development, agricultural pursuits, public parks and natural communities. Appendix 8 contains a series of excerpted policies from the various source documents that are applicable to the ESL program.



Shell Bluff Park

In an effort to consolidate the ESL guidance from a variety of sources into one usable set of program objectives, the Board of County Commissioners has adopted the program objectives on the following two pages.

Primary Program Objectives

- a) Preserve wildlife habitats and protect the health and diversity of wildlife, especially threatened and endangered species of plants and animals.
- b) Promote improved water quality and protect the Floridan aquifer and preserve water recharge areas.
- c) Preserve rare natural communities and wildlife habitats/ecosystems.
- d) Preserve unique cultural, historic, scenic, and significant geologic features.
- e) Promote economic development through the creation of nature tourism property, infrastructure, and opportunities.
- f) Promote appropriate public use and enjoyment of acquired lands including public access to water bodies for recreation activities that are consistent with ESL stewardship principles.

Secondary Program Objectives

- a) Preserve green space as passive recreation in close proximity to development to provide refuge for residents, visitors and wildlife, in coordination with the Land Development Code and Comprehensive Plan where possible.
- b) Reduce capital acquisition and land management costs by partnering with other agencies.
- c) Enhance existing recreation facilities and natural reserve areas throughout the County by acquiring adjoining properties.
- d) Establish wildlife corridors throughout the county promoting wildlife protection, habitat preservation and migration, in coordination with the Land Development Code and Comprehensive Plan where possible.
- e) Establish recreational trail corridors throughout the County promoting alternative transportation modes, nature viewing, and fitness/exercise recreation opportunities.
- f) Restore damaged habitats that can have substantial positive environmental impacts with restoration. Higher weight will be given if this action can produce a tangible financial return to offset purchase or land management costs.

CHAPTER SIX

ACQUISITION PROCESS

In order to effectuate an open, fair, and financially sound land acquisition program the County has developed a series of systematic steps. These steps are specifically designed to give specific direction to the LAC, staff, the public and future Commissions about this process. The process consists of the following steps:

1. Project Application
2. Preliminary Staff Report on Application
3. LAC Review
4. Approval/Disapproval of the Project for Acquisition
5. Staff negotiation of a Price
6. Final Staff Report
7. Review and Recommendation by LAC
8. Approval/Disapproval by the Board of County Commissioners

A flow chart is provided on Page 3 that illustrates the process and each step is explained in greater detail below.

Step 1: Project Application

This process starts with an application to the County's Land Management Division. Potential land acquisitions may be requested by any member of the public, the LAC, BOCC, or County staff and are not required to be owned by the applicant.

Upon receipt of an application, staff will contact the property owner to determine a willingness to sell. If the owner is willing to consider a sale, staff will request permission to enter the property and, if the owner chooses, work with a representative selected and authorized by the owner to negotiate should the project be approved by the BOCC for acquisition. The owner's willingness to sell and permission to enter the land will be documented.

If the owner elects to utilize a representative a copy of the exclusive option agreement, contract or agreement identifying the owner/representative relationship, the role of the representative, and any financial relationship between the parties must be provided. This includes any real estate commissions, attorney's or consultant's fees or any other fees or other benefits due to the representative as a result of a sale to the County. This is in accord with state procedures. This documentation will be part of a complete application package and the application will not be presented to the LAC for review until this documentation is received.

When the above items are completed the application can move forward to Step 2. If the owner is unwilling to sell, or refuses to grant permission to enter the property, the process for this project ends. However, this does not prevent future consideration of this property should the situation change.

A standard application has been created and is included as Appendix 4. This form may be revised from time to time by staff as necessary to carry out the objectives of this manual.

Step 2: Preliminary Staff Report on Application

Upon receipt of an application and completion of the initial requirements in Step 1, applications will be processed as staff time permits. It is important to note that there is no mandatory staff review time. Some applications may move more quickly through the system based on staff's opinion of importance and project viability relative to program objectives and processes. Multiple projects/applications from the same applicant will generally be given individual priorities for each application based on the criteria above.

In preparing the preliminary staff report, staff will collect appropriate maps, data, a Florida Natural Areas Inventory Report (official state biological assessment), and provide any additional relevant information. The staff's preliminary assessment report will provide the LAC an initial evaluation of the program objectives that appear to have been met and notify them of any significant features on the property. Once it has been assembled, staff will submit the project packet to the LAC for consideration:

Required Project Application items:

1. Project Application
2. Staff Preliminary Assessment Report
3. Aerial photograph, Location Map and/or USGS Quadrangle Map
4. Location Map on latest Public Lands, Conservation and Easement Map layers
5. Future Land Use Map/Description and Zoning Map/Description
6. FEMA (Federal Emergency Management Agency) Floodplain Maps and National Wetlands Inventory Map
7. FNAI (Florida Natural Areas Inventory) report
8. Property Appraiser's parcel information (from webpage)
9. Additional information determined of importance (for example, specific historical information)

Step 3: LAC Project Review

The first part of the LAC project review is to compare the application to program objectives. The LAC is charged with making a preliminary determination based on the information provided as to what program objectives the project meets. At least three primary program objectives must be met for the acquisition to be placed on either the A or B list.

Following the determination of what program objectives have been met, one of the following actions shall be taken:

1. Determine the project meets at least three primary ESL program objectives. Accept the application for ranking subject to field verification by County staff. Staff will confirm specific site attributes related to meeting program objectives.
2. Determine the project does not meet at least three primary ESL program objectives and reject/deny the application.
3. Request additional information/time and review the project packet at a later meeting.

Field verification must be performed before the project may be ranked and/or passed on for recommendation to the BOCC. County staff and/or a professional secured by staff will be responsible for the field verification. Additional information may be gathered by the LAC, either individually or as a group to assist members with ranking of the project. The LAC may also request comment on the project from a municipality or civic organization.

Once field verified, the project comes back to the LAC to be comparatively ranked as the second part of Step 3. The LAC is now responsible for placing the project on the A or B list. The A list is limited to 8 projects and the B list is limited to 20 projects of a lesser priority. These limitations are based on administrative capacity. The A and B list will be reviewed and maintained by the LAC as projects are added or at least twice a

year. When the LAC schedules a review of the A list and maintenance activities, staff will provide the LAC with A list project status updates. These updates will include information on the status of negotiations and the period of time that has transpired since the effective date of value in the appraisals. If greater than four months from the effective date of value (as discussed in Step 5) has transpired and a purchase offer has not been accepted by the property owner, the LAC may consider making a recommendation to remove this project from the A list. Staff may have a project or projects retained on the A list if, in their opinion, terms for purchase will be accepted in the near future.



Betty Steflik Memorial Preserve

The A list is reserved for the projects found to be the highest priority of the LAC. Listing on the A list should be based on:

1. Comparing the project to other listed projects based upon the number of project objectives the project meets,
2. Availability of matching funds,
3. Urgency of purchase based on imminent threat of loss,
4. The “weight” or significance of the program objectives met, and
5. Other factors deemed appropriate by the LAC.

The LAC shall rank projects on the A list. Projects on the A list will be ranked and forwarded to the BOCC and recommended for acquisition. The LAC may also consider as part of their recommendation, or County staff may recommend, that the BOCC authorize the Negotiation Team to negotiate an option agreement with the seller as soon as possible to ensure the property is not sold while due diligence is being conducted.

The B list is reserved for projects that are found to meet, at minimum, three primary ESL program objectives. B list projects are not ranked. When compared to the body of projects the LAC is considering, a B list project is not a project that requires immediate action by the LAC and BOCC.

Projects placed on the B list by the LAC will not be forwarded to the BOCC unless that application includes a viable outside financial participation commitment from a government agency of at least 25% of the anticipated acquisition costs. These projects will be forwarded to the BOCC for consideration, with the LAC recommendation included as an exhibit. Those projects that have less than the 25% of outside funding or are subject to a grant shall follow the normal process.



Haw Creek Preserve

Step 4: Approval / Disapproval of the Project for Acquisition

At the completion of Step 3, a project on the A list and recommended for purchase will be placed on the agenda of the next available regularly scheduled BOCC meeting following normal agenda submission request processes. These projects should follow normal agenda submission request timelines and will not be "fast tracked".

The same packet submitted to the LAC shall be provided for BOCC consideration plus the following additional items:

1. Copy of LAC minutes recommending the BOCC acquire the property.
2. LAC recommended priority list.

The BOCC shall review the project application package and take one of the following actions:

- a) Accept the recommendation of the LAC and authorize the Negotiation Team to attempt to pursue an agreement for purchase with the property owner.
- b) Reject/deny the application.
- c) Request additional project information/time and review the project application at a later meeting.



River to Sea Preserve

Step 5: Staff Negotiation of a Price

When the BOCC has authorized the Negotiation Team to pursue acquisition of the property the Negotiation Team shall have a title report performed to determine who has salable interest in the property and if there are any encumbrances that may restrict use of or lower the value of the property.

The Negotiation Team shall utilize the following procedures for formulating offers: Negotiations shall be pursuant to Florida Statute 125.355 or its successor. All lands under consideration shall be appraised to determine market value. If the property is \$500,000 or less, only one appraisal is required. If a property is valued at greater than \$500,000, two appraisals are required. The Negotiation Team will review the acquisition goals the property would fulfill based on the program objectives the property has been determined to meet. In consideration of these objectives, the Negotiation Team may direct the appraiser to identify separate or "breakout" values for structures, individual lots, conservation easement value, entitlements, and/or "bulk purchase value". In addition, the appraiser may be directed to follow Negotiation Team instructions regarding upland/wetland breakdown, sovereign submerged lands, and/or development potential. Appraisal instruction decisions are in the discretion of the Negotiation Team.



Bull Creek Campground

Concurrent with the appraisal(s), an appraisal review will be performed by a review appraiser. For both primary and review appraisers Flagler County shall utilize St. Johns River Water Management District appraisers already under contract with SJRWMD until or unless the County has established its own continuing services contracts for such appraisals. All appraisals and review appraisals shall be kept confidential by the Negotiating Team in accordance with Florida Statute 125.355 or its successor.

The review appraiser must certify to Flagler County that the appraisals have been conducted substantially in accordance with good appraisal practice and the Uniform Standards of Professional Appraisal Practice, and must approve the appraised value(s) of the subject real property before Flagler County will use the appraisal for negotiation purposes. The review appraiser guidelines are found in Appendix 9. The review appraiser's certification is to be delivered at the same time as the final review report and the reviewed final appraisal report(s).

All appraisal reviews shall be performed in accordance with Standard 3 for Review of Appraisals of the most current edition of the Uniform Standards of Professional Appraisal Practice developed by the Appraisal Foundations (USPAP).

If two appraisals are required they shall be considered to differ significantly if the higher of the two values exceeds 120 percent of the lower value. When two appraisals differ significantly the following steps shall be taken:

1. The review appraiser shall request that the two appraisers review the differences in their respective reports to attempt to rectify their value conclusions so that the two value conclusions are not significantly different.
2. A third appraisal shall be obtained if the two appraisals differ significantly and cannot be rectified, unless a decision is made by the Negotiation Team to negotiate an acquisition price of no more than 120 percent of the lower of the two reviewed and approved appraisals.
3. If a third appraisal is obtained and reviewed and approved, the maximum acquisition price shall be the value contained in the higher of the two closest appraisals, so long as the two closest appraisals do not differ significantly. If the two closest appraisals still differ significantly, 120 percent of the lower of the two closest appraisals shall be the maximum allowable offer.

The maximum allowable offer is defined as:

- If one appraisal is obtained – the value contained within that appraisal as certified by the review appraiser.
- If two appraisals are obtained –
 - o The value of the higher appraisal if their values do not differ significantly.
 - o The value resulting from application of 2 or 3 from the preceding paragraph.



Princess Place Preserve

The resulting maximum allowable offer shall be the maximum offer the Negotiation Team may forward for acquisition of a parcel. The Negotiation Team may only utilize appraisals obtained by Flagler County, or an acquisition partner if the partner's appraisal meets County standards, in formulating the maximum allowable offer. Appraisals supplied by the property owner or other parties may not be utilized for this purpose.

An appraisal's conclusion of value represents a professional's estimation of value for a given moment in time. The real estate market can be highly volatile and prices can fluctuate drastically in relatively short periods of time. Based on this premise, the Negotiation Team shall consider an appraisal reviewer's approval of the appraisal values and the resulting maximum allowable offer valid for a limited period of time. The Negotiation Team shall use appraisals for offer and counteroffer purposes for a maximum of four months from the effective date of value contained in the most recent appraisal report. If this four month period expires without an offer being agreed to by seller and the Negotiation Team, and the project remains on the A list (in accordance with Step 3), the Negotiation Team may obtain new appraisals and continue the process. Once a tentative agreement of an offer has been reached by the Negotiation Team and the sellers, the appraisals shall be considered valid for up to an additional 4 months to allow time for a purchase agreement and processing through the Land Acquisition Committee and Board of Commissioners.

It shall be the goal of the Negotiation Team to acquire property at the best price and terms that can be negotiated in the interest of the project's purpose. The Negotiation

Team will review the appraisal information and LAC designated purpose of acquisition and determine if the purpose for property acquisition is economically viable. The Negotiation Team may determine at any point in the negotiation process that the desired interest in the property cannot be reached at a reasonable value and may terminate the negotiation process. If found to be the case, County staff shall inform the Board of County Commissioners (BOCC) and the Land Acquisition Committee (LAC) that negotiations have terminated.

It is recognized that appraising is a professional practice that involves judgment. To this extent, nothing in this section is intended to substitute for reasonable judgment with respect to the appraisal and/or the appraisal review process. Notwithstanding the mandates of applicable statutes and administrative rules, appraisers may substitute reasonably prudent procedures with appropriate reasoning and support, when necessary, provided the public's interest is reasonably protected.

When negotiating an acquisition, and after receipt of approved values, the Negotiation Team shall meet to determine an appropriate offer on the property. The objective of all purchase negotiations shall be to obtain the property, at the lowest possible price. The appropriate interest in real property free of encumbrances, conditions, restrictions and reservations that would impede the purposes or management of the site will generally be sought, with fee simple being the preferred interest. The Negotiation Team shall have the authority to forward any offer amount determined appropriate by the team and in compliance with the maximum allowable offer as previously defined. Any counter offers may be rejected if determined unacceptable and the Negotiation Team shall have authorization to end all negotiations at any time.

If a purchase price offer is accepted that amount shall be forwarded to the LAC for a recommendation for or against purchase to the BOCC.

If the Negotiation Team is unable to reach agreement on a purchase price at or less than the maximum allowable offer, the Negotiation Team may terminate negotiations. In lieu of termination of negotiations, the Negotiation Team may prepare a report to the BOCC outlining the status of negotiations and asking the BOCC if they wish to authorize the Negotiation Team to negotiate a purchase price in excess of the maximum allowable offer. The Negotiation Team is under no obligation to make this request to the BOCC and should utilize this option only for the most highly ranked parcels. Authorization to negotiate above the maximum allowable offer must be approved by BOCC supermajority, i.e. four out of five members.

If Flagler County is partnering with another organization in the acquisition of a project the county's participation is bound by the above processes, however, the overall purchase price may exceed the maximum allowable offer when combined with the partnering organization's participation.

Step 6: Final Staff Report on Application

When the Negotiation Team reaches an acceptable agreement for purchase, staff will prepare a package for the LAC for its recommendation to the Board of County Commissioners. The purchase agreement may be in the form of an option agreement.

Staff will submit the packet to the LAC for consideration. It will contain:

1. Staff report.
2. Purchase Agreement signed by Seller.
3. Title report.
4. Appraisal(s) executive summary.
5. Pertinent information from the preliminary package.
6. Other information deemed relevant by staff.
7. A report on the availability of funds.

Step 7: Review and Recommendation by LAC

The LAC shall make a recommendation to the Board of County Commissioners for or against the purchase based upon the package supplied within 45 days of receipt of the package.

Step 8: Approval/Disapproval by the BOCC

The final package will be forwarded to the BOCC for approval or denial. The package containing the LAC recommendation will be placed on the next reasonable meeting following standard Flagler County BOCC agenda request procedures. The package to the BOCC will consist of the same final project package given to the Land Acquisition Committee plus its recommendation and applicable minutes from the Land Acquisition Committee. The BOCC has the right to reject any purchase price. Purchases must be approved by majority vote. Purchases above the maximum allowable offer must be approved by supermajority, i.e. four out of five members. If a purchase is rejected the BOCC may assign the Negotiation Team with continued pursuit. The BOCC shall not make offers or receive counteroffers.

Upon BOCC approval of a Purchase Agreement staff will move forward with all activities necessary to finalize the transaction and close on the property in accordance with the terms of the Agreement.

CHAPTER SEVEN

PUBLIC ACCESS & STEWARDSHIP FUNDS

The acquisition of environmentally sensitive lands presents many opportunities, challenges, and responsibilities. After a property is acquired, responsibilities shift to the long-term maintenance/management as well as public access and capital site improvements. To assist in this goal, Resolution 2008-53, which authorized the November 4, 2008 referendum to continue the ESL program for an additional 20 years, contained a provision allowing a limited amount of these funds to be used for these purposes. The Resolution contained the following language in Section II(K) outlining the use of Public Access and Stewardship Funds (PASF):

(K) It is in the public interest that there is adequate funding made available for appropriate public access and proper stewardship through land management of all properties acquired under the program. To facilitate these goals, there shall be set aside an amount of up to ten percent (10%) of the purchase price for each new property acquisition for improvements to the acquired property. The improvements may include public access improvements, passive recreational site improvements, natural community restoration and habitat enhancement. Such fund utilization shall be made on a one time basis for each newly acquired property and must be consistent with the above stated purposes. Whenever possible, such amount shall be utilized as a matching source for grant applications for the above purposes.

"One time basis", when used in (K) above, does not create a timeframe for use of the funds, but insures that the up to 10% allocation of the purchase price is not used multiple times in the same project (i.e. "a one time basis").

Improvements are defined as:

- Improvements may consist of survey, design, permitting, management plans, environmental reports, archeological studies, and/or construction of park development features that meet the intention of this section.
- Public access improvements generally include improvements necessary for the public to access and utilize the acquisition property. Such improvements include but are not limited to: access roads and parking areas (to include required stormwater features), restroom facilities, camping facilities, caretaker residence, ranger station, and kayak or canoe launches.

- Passive recreational site improvements may include trail system construction, observation platforms, fishing piers, signage, boundary marking signage, interpretive exhibits, and other improvements that would generally be found in state and national parks and campgrounds.
- Natural community restoration and habitat enhancement may consist of but is not limited to the creation of a management plan for the site, wildfire mitigation activities (including prescribed burning), invasive or exotic species control, non-landscape oriented vegetative plantings, or natural community modifications intended to benefit a species or community type.

Public Access and Stewardship Funds may be requested on an “as available” basis up to a maximum of 10% of the purchase price. This means an ESL acquired property will not have the approved percentage of the purchase price automatically reserved for uses in compliance with this section. Available ESL funds will be used as outlined in the Process section below. If monies are determined not to be available when an application is approved, future monies may be set aside from the ESL program as funding permits and as part of the County’s normal budgeting process to fund the request.

An application may be made by any Flagler County department or a municipality within the County if title to the ESL acquired property is held by that municipality. If a municipality is the applicant, the Public Access and Stewardship Funds will be limited to a maximum 10% of the municipality’s ESL financial participation in a project. The funds must be utilized within one year of the date of BOCC approval of a Public Access and Stewardship Funds project. Unused funds at the completion of the project must be returned to an ESL account. Unused funds will not count toward the total 10% maximum allotment per the project.

Process:

1. A complete application shall be made to the LAC for the use of such funds. The application is in Appendix 5.
2. The LAC shall review the application to ensure the proposed uses conform to the standards outlined in Resolution 2008-53. The LAC shall either:
 - a. Recommend to the Board of County Commissioners the use of funds either in whole or in part;
 - b. Request additional information necessary to make this determination;
 - c. Recommend the Board of County Commissioners deny the use of funds, in whole or in part, due to uses incompatible with the program objectives.
3. The Board of County Commissioners shall approve or deny the application in whole or in part.

CHAPTER EIGHT

AMENDMENTS

TO THE MANUAL

In order to carry out the responsibilities to maintain the Land Acquisition Manual in a correct and up-to-date manner, the LAC or its Chairperson shall coordinate all manual issues with staff to ensure that the manual is kept up-to-date.

The LAM may be amended or modified in two ways:

- If the changes are minor, they may be made by issuing a memorandum containing instructions for making pen and ink changes. The memorandum with the minor changes will be prepared by staff and approved by the LAC.
- If the changes to be made are substantial, e.g., complete rewriting of one or more paragraphs or additions of new material, the affected pages containing the changes will be reissued. Each re-issuance will bear a release number or date of issuance. Substantial changes must be prepared by staff and approved by the BOCC.



Moody Trees

APPENDIX ONE

PROGRAM HISTORY

Flagler County is located along the eastern coast of Florida, midway between Daytona Beach and the City of St. Augustine. The County possesses uncrowded beaches, historic ruins, tranquil waterways, subtropic forests, the Atlantic Ocean, the Intracoastal Waterway and fresh water lakes. The County has instituted policies and programs intended to protect these resources from urban sprawl and to provide appropriate recreation and open space opportunities for citizens and visitors.

The County's comprehensive plan expresses an intent to expand eco-tourism through the provision, maintenance and expansion of natural open space and greenway connectors, as well as to promote outdoor recreation opportunities for the growing population in Flagler County. These policies, in conjunction with land acquisition programs, will allow the County to meet the recreational demands while conserving environmentally sensitive lands.

The Flagler County Environmentally Sensitive Lands (ESL) program was adopted in 1988 and uses voter-approved ad valorem taxes to acquire and manage environmentally sensitive lands, recreation areas and water recharge areas. The Land Acquisition Committee (LAC) was formed in 1989 to implement this land acquisition program. Since the inception of the ESL program, the County has directly acquired 4,200 acres of land costing a total of \$29.5 million, of which 40% came from the County's land acquisition fund and the remaining 60% from grants and other non-county funding. The decrease in outside participation is in part attributed to the fact that Flagler County no longer qualifies as a small county under the Florida Communities Trust guidelines and as such is no longer eligible for 100% FCT funding. Additionally, there has been a major shift in the FCT program which forced rural, greenway types of acquisitions to a balanced rural/urban progression in which it is more difficult to compete.

1988 Referendum

Realizing the need to protect adequate green space, the citizens of Flagler County approved the referendum by a 70% vote. This referendum was designed to provide for the levy of ad valorem taxes not to exceed one-third of one mil (0.3333 mil) for twenty years to fund a County land acquisition program. The purpose was to use the funds to acquire environmentally sensitive lands, recreation areas and water recharge areas. One of the catalysts for the referendum came from the publics' desire for preservation and conservation of the Princess Place Preserve, a site of historic and ecological significance, that was under development pressure and whose acquisition was initially thwarted by the County's inability to pledge matching funds to obtain state grants.

1998 Re-evaluation

After ten years of program acquisition, the LAC recognized that ESL funds were not adequate to continue the acquisition program. Therefore, the LAC requested that the Board of County Commissioners (BOCC) authorize funds to prepare financial data relevant to determining the best method for maximizing ESL funds, including a possible 1998 referendum. In addition, the LAC requested that the BOCC approve the development of a land acquisition plan that would include an analysis of existing public lands, identify acquisition needs and potential acquisition, develop recommended land management strategies, outline related costs and design a public information program. This request was approved in February 1998 and Herbert Halback, Inc. (HHI) was hired to prepare the requested information.



Bing's Landing

The following draft referendum language was presented to the BOCC in July 1998:

PROPOSTION NO. 000, BROADENING AND EXTENDING FLAGLER COUNTY'S ENVIRONMENTALLY SENSITIVE LANDS PROGRAM

"Shall Flagler County be authorized to broaden and extend the annual levy of ad valorem taxes for an additional ten years from the year 2009 to the year 2019 on all taxable property at a rate of one-third mil to acquire, improve and enhance environmentally sensitive lands and interests in land, including, but not limited to water recharge areas and lands for parks and recreation, and to finance such acquisitions and activities with up to ___ Dollars in general obligation bonds made payable from such ad valorem taxes, provided that no more than ten percent of such funds may be used for capital improvements?"

After review of recommendations from the committee, the County Administrator, the consultant and other county planning and legal staff, the BOCC decided to refinance the current bond issue without a referendum and secure monies with the ESL millage cap. During Fiscal Year 1998/1999 budget process the Board set the debt service millage at 0.2667. Following this decision, the County refinanced the bond issue by awarding SunTrust the bid for \$5,105,000 in ESL bonds at a 3.97% fixed interest rate. Of this amount, \$3,575,000 was used to cover the refunding of the Series 1989 bonds and \$1,521,000 represented net additional funding for land acquisition. Due to the decision to not pursue a referendum Herbert Halback reduced their services to focus on identifying potential land acquisitions, developing management strategies and related costs, updating the original land acquisition manual and developing a public information program.

2002 Referendum

In September of 2002 the Board passed Resolution 2002-97. This Resolution authorized a referendum for additional ESL funding. In November of 2002 over 74% of voters reaffirmed their support for the ESL program by passing this referendum for the issuance of Environmentally Sensitive Lands bonds. This referendum authorized the County to issue general obligation bonds in an amount not to exceed \$6,700,000.00 payable from annual ad valorem taxes levied at a rate not exceeding 0.163 mill for a term not exceeding 14 years.

2008 Referendum

On November 4, 2008 Flagler County citizens again demonstrated their support for this program. Resolution 2008-53 placed the future of the program back in the hands of voters asking them if they desired to continue the program for an additional 20 years at a fixed millage of 0.25. This referendum also contained language allowing up to 10% of program funds to be utilized toward public access, natural community restoration and enhancement, and passive recreational site improvements. This question received a 65% approval on the November 4th ballot.

BALLOT LANGUAGE:

CLEAN WATER AND ENVIRONMENTALLY SENSITIVE LAND PRESERVATION

To continue to acquire and improve land to protect drinking water sources, preserve wildlife habitat and environmentally sensitive lands, reduce risk of wildfires, improve water quality of lakes, streams and the Intracoastal Waterway, and seek matching funds, shall Flagler County be authorized to levy 0.25 mill ad valorem tax for twenty years and issue bonds not exceeding \$40 Million at interest rates not exceeding the legal maximum, subject to an annual independent audit?

_____ Yes = For Ad Valorem Levy and Bonds

_____ No = Against Ad Valorem Levy and Bonds

APPENDIX TWO

ENVIRONMENTAL LAND ACQUISITIONS

Since the inception of the land acquisition program, Flagler County has directly acquired over 4,500 acres of land costing \$52.5 million, of which \$23 million came from the County's land acquisition fund and the remainder from Florida Communities Trust, St. Johns River Water Management District (SJRWMD), Florida Department of Environmental Protection (FDEP), and other non-county funding. Additionally, the County's acquisitions toward greenway development was matched by other funding agencies which acquired adjoining or related lands. This includes acquisitions such as Graham Swamp, Faver Dykes Addition, Pellicer Creek Conservation Corridor, and the Matanzas River Estuary Corridor.

Table 1: Flagler County Environmental Land Acquisitions

Property	Year	ESL Funds Spent	Other Funding	Source	Acreage
Bings Landing Park	1989	\$1,005,024			7
Lake Disston Access	1990	\$50,729			2
Haw Creek Preserve	1990	\$1,121,194	\$436,925	SJRWMD	1,015
Betty Stelik Preserve Phase 1	1990	\$808,967			218
Washington Oaks Addition	1993	\$49,900	\$586,900	FDEP	11
Princess Place Preserve	1993	\$1,738,647	\$2,909,736	P-2000 / SJRWMD	1,500
River to Sea Preserve	1999	\$0	\$8,383,473	P-2000	90
Betty Steflik Preserve Phase 2	1999	\$0	\$83,626	P-2000 / SJRWMD	105
Lehigh Rail Trail	2001	\$0	\$282,800	FDEP	200
Palm Coast Linear Park	2001	\$1,465,000	\$5,935,000	City of Palm Coast	51
Palm Coast Linear Park Addition	2002	\$192,000	\$768,000	City of Palm Coast	5

- continued on next page -

Property	Year	ESL Funds Spent	Other Funding	Source	Acreage
Shell Bluff	2005	\$1,000,000			90
Mala Compra Oceanfront Addition	2006	\$0	\$3,414,500	Florida Forever	5
Mulberry Branch	2007	\$1,200,000	\$800,000	City of Palm Coast	60
Bull Creek Fish Camp	2007	\$1,800,000			28
Public Lands "D"	2007	\$0		negotiated donation from Ginn Corporation	1,000
Long's Landing	2008	\$1,365,000	\$3,135,000	City of Palm Coast and Florida Forever	9
Moody Homesite	2008	\$950,000	\$2,350,000	Charitable Land Donation	3.5
Harbor Island	2008	\$425,000	\$425,000	FDEP	60
Bay Drive Park Addition	2009	\$5,850,000			13
Bings Landing Addition	2009	\$1,500,000			2.5
Bulow Park	2009	\$2,498,430			97
TOTAL		\$23,019,891	\$29,510,960		4,572

APPENDIX THREE

NATURAL COMMUNITY TYPES

Basin Marsh - (synonyms: prairie, freshwater marsh)

Basin Marsh is characterized as an herbaceous or shrubby wetland situated in a relatively large and irregular shaped basin. Typical plants include common reed, panicum, cutgrass, southern watergrass, pennywort, Spanish needle, redroot, soft rush, American lotus, water primrose, arrowhead, coastal plain willow, saltbush, elderberry, spikerush, knotweed, buttonbush, and dog fennel. Typical animals include two-toed amphiuma, lesser siren, greater siren, cricket frog, green treefrog, bull frog, pig frog, leopard frog, alligator, eastern mud snake, green water snake, banded water snake, striped swamp snake, black swamp snake, great blue heron, great egret, snowy egret, little blue heron, tricolored heron, bald eagle, and northern harrier.

Basin Marshes usually develop in large solution depressions that were formerly shallow lakes. The lake bottom has slowly filled with sediments from the surrounding uplands and with peat derived from plants. Thus, the soils are usually acidic peats. The hydroperiod is generally around 200 days per year. Open areas of relatively permanent water within the marsh, with or without floating aquatic vegetation, are considered to be Marsh Lakes (See Lacustrine Natural Communities).

Fire maintains the open herbaceous community by restricting shrub invasion. The normal interval between fires is 1 to 10 years, with strictly herbaceous marshes burning about every 1 to 3 years, and those with substantial willow and buttonbush having gone 3 to 10 years without fire. Fires during drought periods will often burn the mucky peat and will convert the marsh into a Marsh Lake.

Basin Marshes are associated with and often grade into Wet Prairie or Lake communities. They may eventually succeed to Bog, if succession is not reversed by a muck fire. Many of the plants and animals occurring in Basin Marshes also occur in Floodplain Marsh, Slough, Swale and Depression Marsh. Large examples of the Depression Marsh, in fact, may be very difficult to distinguish from small examples of Basin Marsh.

Normal hydroperiods must be maintained, or Basin Marsh vegetation will change. Shortened hydroperiods will permit the invasion of mesophytic species, while longer hydroperiods will convert marsh into lake. Fire is also necessary to control hardwood encroachment. However, fires during droughts should be avoided to reduce the possibility of a muck fire. Many sites have been degraded by pollution or drained for agricultural uses.

Basin Swamp - (synonyms: gum swamp, bay, bayhead, swamp)

Basin Swamp is generally characterized as a relatively large and irregularly shaped basin that is not associated with rivers, but is vegetated with hydrophytic trees and shrubs that can withstand an extended hydroperiod. Dominant plants include blackgum, cypress, and slash pine. Other typical plants include red maple, swamp redbay, sweetbay magnolia, loblolly bay, Virginia willow, fetterbush, laurel greenbrier, Spanish moss, wax myrtle, titi, sphagnum moss, and buttonbush. Typical animals include southern dusky salamander, cricket frog, little grass frog, chicken turtle, striped mud turtle, ringneck snake, scarlet kingsnake, crayfish snake, cottonmouth, wood duck, hawks, turkey, great horned owl, barred owl, pileated woodpecker, songbirds, gray squirrel, black bear, raccoon, mink, river otter, bobcat, and white-tailed deer.

Soils in Basin Swamps are generally acidic, nutrient poor peats, often overlying a clay lens or other impervious layer. The resulting perched water table may act as a reservoir releasing groundwater as adjacent upland water tables drop during drought periods. The typical hydroperiod is approximately 200-300 days. Basin Swamps are thought to have developed in oxbows of former rivers or in ancient coastal swales and lagoons that existed during higher sea levels.

Infrequent fire is essential for the maintenance of cypress dominated Basin Swamps. Blackgum and hardwood dominated Basin Swamps burn less often, while pine dominated Basin Swamps burn more frequently. Without fire, hardwood invasion and peat accumulation will eventually create a Bottomland Forest or Bog. Typical fire intervals in Basin Swamps may be anywhere from 5 to 150 years. Cypress and pines are very tolerant of light surface fires, but muck fires burning into the peat can kill the trees, lower the ground surface, and transform a swamp into a pond or lake.

Small Basin Swamps may be difficult to distinguish from large Dome Swamps. Basin Swamps are often associated with and may grade into Wet Flatwoods, Hydric Hammock, or Bottomland Forest. The species composition of Basin Swamps frequently overlaps with Floodplain Swamp, Strand Swamp, and Baygall.

Like other wetland communities, normal hydroperiods must be maintained in Basin Swamps. If water levels must be artificially manipulated, somewhat deeper than normal water is not likely to do much harm, but extended hydroperiods will limit tree growth and prevent reproduction. Shortened hydroperiods will permit invasion of mesophytic species and change the character of the understory or will allow a devastating fire to enter which would drastically alter the community. Occasional fires are necessary to maintain the cypress and pine components.

Basin Swamps are unsuitable for construction because of their extended hydroperiods and peaty soils. Most have been degraded by timber harvests, and many have been drained or polluted. Thus, very few pristine examples of Basin Swamp communities exist. Those that remain should be adequately protected and properly managed.

Baygall - (synonyms: seepage swamp, bayhead, bay swamp)

Baygalls are generally characterized as densely forested, peat-filled seepage depressions often at the base of sandy slopes. The canopy is composed of tall, densely packed, generally straight-boled evergreen hardwoods dominated by sweetbay, swamp red bay, and loblolly bay. A more or less open understory of shrubs and ferns commonly occurs, while sphagnum mats are often interlaced with the convoluted tree roots. Other typical plants include dahoon holly, Atlantic white cedar, fetterbush, male-berry, myrtle-leaved holly, large gallberry, wax myrtle, odorless wax myrtle, hurrah-bush, dog-hobble, white alder, possumhaw, red chokeberry, Virginia willow, laurel greenbrier, poison ivy, cinnamon fern, chain fern, wild grape, netted chain fern, sweetgum, cypress, lizard's tail, and needle palm. Typical animals include mole salamander, southern dusky salamander, southern mud salamander, opossum, southeastern shrew, short-tailed shrew, marsh rabbit, black bear, raccoon, southern mink, and bobcat.

Baygalls typically develop at the base of a slope where seepage usually maintains a saturated peat substrate. They may also be located at the edges of floodplains or in other flat areas where high lowland water tables help maintain soil moisture. Baygall soils are generally composed of peat with an acidic pH (3.5 - 4.5).

Since Baygalls rarely dry out enough to burn, the normal fire interval in these communities is probably 50-100 years or more. After a fire, bay trees usually resprout from the roots and replace themselves, but severe fires may change a Baygall into a different community.

If only a small amount of surface peat is removed, a Baygall may be replaced by a Wet Flatwoods community. If the ground surface is lowered considerably, willows may invade, followed by a cypress-gum community. With recurrent fire, the site will become a shrub bog. If the subsurface peat does not burn and fire and hydrological regimes are undisturbed, a burned out bay forest may be replaced by a stand of white cedar.

Baygall is often associated with and may grade into Seepage Slope, Floodplain Forest or Floodplain Swamp. The species composition of Baygalls frequently overlaps with Bog, Dome Swamp, Basin Swamp, Strand Swamp, Bottomland Forest, Wet Flatwoods, and Hydric Hammock.

Baygalls are dependent upon seepage flow and a high water table. Alterations in the local or regional hydrology could impact Baygall communities. They may also need fire protection during droughts, especially if water tables are lowered. Baygalls are vulnerable to logging, peat mining, and conversion to agricultural land. When drained, the peat soils are valued for farming, although they then begin to oxidize and disappear. The renewed interest in mining peat as fuel may place greater pressure on these wetlands.

Beach Dune - (synonyms: sand dunes, pioneer zone, upper beach, sea oats zone, coastal strand)

Beach Dune is characterized as a wind-deposited, foredune and wave-deposited upper beach that are sparsely to densely vegetated with pioneer species, especially sea oats. Other typical pioneer species include beach cordgrass, sand spur, dune or bitter panic grass, railroad vine, beach morning glory, seashore paspalum, beach elder, dune sunflower, sea purslane, and sea rocket. Typical animals include ghost crab, six-lined racerunner, kestrel, red-winged blackbird, savannah sparrows, beach mouse, and raccoon. Beach dune, especially along its ecotone with the unvegetated beach, is also the primary nesting habitat for numerous shorebirds and marine turtles, including many rare and endangered species.

Beach Dune communities are found along shorelines subject to high energy waves which deposit sand-sized grains to form the open beach. Onshore winds move the sand grains inland until slowed by an obstacle, usually plant stems, causing the grains to drop. As the plants grow upward and burial continues, a foredune is built. Dune height is largely determined by the strength and the directional constancy of winds and by the growth habits of dune-forming plants.

As a cape or barrier island grows seaward, new beaches are deposited seaward of the old ones and a characteristic ridge and swale topography develops.

Beach Dunes are very dynamic communities and mobile environments. The wind continually moves the sand inland from the beach until trapped by vegetation. Beach Dunes are subject to drastic topographic alterations during winter storms and hurricanes. Taking the brunt of storm surge, intact Beach Dunes are essential for protection of inland biological communities. The soils of Beach Dunes are composed of sands that are similar to those washed onto the adjacent beach, except that the wind selectively lifts out the smaller sand particles, blows them inshore, and deposits them around plant stems. These deep siliceous or calcareous sands drain rapidly, creating decidedly xeric conditions.

Beach Dunes occur in an extremely harsh environment. The dune vegetation must be able to tolerate loose, dry, unstable, nutrient poor soils, as well as exposure to wind, salt spray, sand abrasion, intense sunlight, and storms. Thus, dune species have evolved several morphological adaptations to survive in this harsh environment. Many of them root easily from fragments washed ashore in storm debris, or they produce large floating seeds that can be transported by ocean currents. Some have thickened cuticles and succulent foliage to better retain water and to reduce the effects of salt spray and sand abrasion. Some spread by subterranean or surface runners that creep across the barren sands. Many readily reroot from higher up their stems when buried by blowing sand and consequently develop a matted or wiry root system. Some have become so dependent on the dune habitat that they lose vigor without shifting sands constantly stimulating

them to send out new shoots and reroot. These characteristics are the primary reasons for their unique ability to stabilize aeolian sand into nearly static beach dunes.

In spite of their ability to withstand the harsh maritime environment, plants of the Beach Dunes are extremely vulnerable to human impacts. A footpath or off-road vehicle trail over the beach dunes can damage the vegetation, giving wind and water the leverage needed to begin erosional processes. A gap, or blowout, forms and continually widens until it is slowly revegetated and stabilized. The sand from the gap moves inland, and rapidly buries vegetation, destabilizing the beach dunes and often disturbing adjacent communities. When a storm ensues, the unvegetated gap allows storm surges easy access to these communities for further disruption.

Because of their vulnerability, Beach Dunes require protection from trampling (i.e., boardwalks for beach access) and off-road vehicles. Coastal developments which affect the sand sources that are necessary for Beach Dune replenishment should be strongly discouraged.

Blackwater Stream - (synonyms: blackwater river, blackwater creek)

Blackwater Streams are characterized as perennial or intermittent seasonal watercourses originating deep in sandy lowlands where extensive wetlands with organic soils function as reservoirs, collecting rainfall and discharging it slowly to the stream. The tea-colored waters of Blackwater Streams are laden with tannins, particulates, and dissolved organic matter and iron derived from drainage through swamps and marshes. They generally are acidic (pH = 4.0 - 6.0), but may become circumneutral or slightly alkaline during low-flow stages when influenced by alkaline groundwater. Water temperatures may fluctuate substantially and are generally correlated with seasonal fluctuations in air temperature. The dark-colored water reduces light penetration and, thus, inhibits photosynthesis and the growth of submerged aquatic plants. Emergent and floating aquatic vegetation may occur along shallower and slower moving sections, but their presence is often reduced because of typically steep banks and considerable seasonal fluctuations in water level. Typical plants include golden club, smartweed, sedges, and grasses. Typical animals include river longnose gar, gizzard shad, threadfin shad, redfin pickerel, chain pickerel, ironcolor shiner, Ohooppee shiner, weed shiner, blacktail shiner, chubsucker, channel catfish, banded topminnow, pygmy killifish mosquitofish, mud sunfish, flier, everglades pygmy sunfish, banded sunfish, redbreast sunfish, dollar sunfish, stumpknocker, spotted bass, black crappie, darters, Alabama waterdog, river frog, alligator, snapping turtle, alligator snapping turtle, river cooter, Florida cooter, peninsula cooter, stinkpot, spiny softshell, red-belly watersnake, brown watersnake, beaver, and river otter.

Blackwater Streams have sandy bottoms overlain by organics and frequently underlain by limestone. Limestone outcrops may also occur. Blackwater Streams generally lack the continuous extensive floodplains and natural levees of Alluvial Streams. Instead, they

typically have high, steep banks alternating with Floodplain Swamps. High banks confine water movement except during major floods. The absence of significant quantities of suspended sediments reduces their ability to construct natural levees.

Blackwater Streams are the most widely distributed and numerous Riverine systems in the southeast Coastal Plain. Very few, however, have escaped major disturbances and alteration. Clearcutting adjacent forested lands is one of the more devastating alterations for this community. Additionally, the limited buffering capacity of Blackwater Streams intensifies the detrimental impacts of agricultural and industrial effluents.

Coastal Strand - (synonyms: shrub zone, maritime thicket, coastal scrub)

Coastal Strand is characterized as stabilized, wind-deposited coastal dunes that are vegetated with a dense thicket of salt-tolerant shrubs, especially saw palmetto. Other typical plants include sand live oak, cabbage palm, myrtle oak, yaupon, sea grape, cat's claw, nakedwood, lantana, greenbrier, buckthorn, cocoplum, nickerbean, coin vine, beach jacquemontia, pinweed, bay cedar, necklace pod, sea lavender, Spanish bayonet, woody goldenrod and Florida rosemary. Typical animals include gopher tortoise, six-lined racerunner, southern hognose snake, coachwhip snake, diamondback rattlesnake, and beach mouse.

Coastal Strand occurs on deep, wind-deposited sands which have been wind- sorted and wave-washed. There is usually some shell admixed with quartz grains on the beach, but this is rapidly leached out in the course of only a few hundred years. Coastal Strand dunes are generally quite stable but are susceptible to severe damage if the vegetation is disturbed. Shrubs in the Coastal Strand are frequently dwarfed and pruned as a result of the salt spray-laden winds that kill twigs on the seaward side, producing a smooth, dense upward-slanting canopy resembling a sheared hedge.

Coastal Strand is actually an ecotonal community that generally lies between Beach Dune and Maritime hammock. It may also grade into Scrub, and it often shares many of the same species that occur in Coastal Berm. Fire may reduce succession towards Maritime Hammock.

However, maritime influences alone will often suffice to inhibit succession to forest. Coastal Strand is probably the most rapidly disappearing community in Florida. It is most extensive along the Atlantic Coast where, being elevated and next to the coast, it is prime resort or residential property. Coastal Strand originally occurred as a nearly continuous band along the Atlantic shorelines. Now it occurs largely as broken and isolated small stretches. In south Florida, it has also been disturbed by invasions of exotic species, principally Brazilian pepper and Australian pine. Along with other coastal communities, Coastal Strand protects inland communities from the severe effects of storms.

Depression Marsh - (synonyms: isolated wetland, flatwoods pond, St. John's wort pond, pineland depression, ephemeral pond, seasonal marsh)

Depression Marsh is characterized as a shallow, usually rounded depression in sand substrate with herbaceous vegetation often in concentric bands. Depression Marshes are similar in vegetation and physical features to, but are generally smaller than, Basin Marshes. Typical plants include St. John's wort, spikerush, yelloweyed grass, chain fern, willows, maidencane, wax myrtle, swamp primrose, bloodroot, buttonbush, fire flag, pickerelweed, arrowheads, and bladderwort.

Larger and more permanent Depression Marshes may have many of the same plants and animals listed as typical of Basin Marshes. However, because of their isolation and small size, many Depression Marshes support a very different assemblage of species than that found in larger, more permanent wetlands. Depression Marshes are considered extremely important in providing breeding or foraging habitat for such species as the flatwoods salamander, mole salamander, tiger salamander, dwarf salamander, striped newt, oak toad, cricket frog, pinewoods treefrog, barking treefrog, squirrel treefrog, little grass frog, southern chorus frog, ornate chorus frog, narrowmouth toad, eastern spadefoot toad, gopher frog, white ibis, wood stork and sandhill crane. Depression Marshes occurring as isolated wetlands within larger upland ecosystems are of critical importance to many additional wetland and upland animals.

Depression Marshes are typical of karst regions where sand has slumped around or over a sinkhole and thereby created a conical depression subsequently filled by direct rain fall, runoff, or seepage from surrounding uplands. The substrate is usually acid sand with deepening peat toward the center. Some depressions may have developed or be maintained by a subsurface hardpan. Hydrological conditions vary, with most Depression Marshes drying in most years.

Hydroperiods range widely from as few as 50 days or less to more than 200 days per year. Fire is important to maintaining this community type by restricting invasion of shrubs and trees and the formation of peat. Fire frequency is often greatest around the periphery of the marsh and least toward the center. A severe peat fire can lower the ground surface and create a pond at the center of the marsh.

Depression Marshes are often associated with and grade into Wet Prairie, Seepage Slope, Wet Flatwoods, Mesic Flatwoods, Dome Swamp or Bog. They also may occur in association with various types of lakes, such as Sandhill Lake or Flatwoods Lake. Depression Marshes are threatened by drainage, agriculture, pollution, fire suppression, and invasion of exotic species. Depression Marshes may be filled and converted to other uses. A regional lowering of the water table as a result of overuse may eliminate many Depression Marshes. Depression Marshes on some public lands have been deepened by explosives to allow for stocking with game fish. By preying upon the eggs and larvae of

frogs and salamanders, these fish may eliminate the amphibians that depend on such seasonal wetlands for successful reproduction. Likewise, many species of invertebrates not adapted to predation by fishes may be eliminated.

Dome Swamp - (synonyms: isolated wetland cypress dome, cypress pond, gum pond, bayhead, cypress gall, pine barrens pond)

Dome Swamps are characterized as shallow, forested, usually circular depressions that generally present a domed profile because smaller trees grow in the shallower waters at the outer edge, while bigger trees grow in the deeper water in the interior. Pond cypress, swamp tupelo, and slash pine are common plants. Other typical plants include red maple, dahoon holly, swamp bay, sweetbay, loblolly bay, pond apple, Virginia willow, fetterbush, chain fern, netted chain fern, poison ivy, laurel greenbrier, Spanish moss, wild pine, royal fern, cinnamon fern, coastal plain willow, maidencane, orchids, wax myrtle, swamp titi, St. John's wort, sawgrass, lizard's tail, swamp primrose, water hyssop, redroot, sphagnum moss, floating heart, buttonbush, arum, and fire flag. Typical animals include flatwoods salamander, mole salamander, dwarf salamander, oak toad, southern cricket frog, pinewoods treefrog, little grass frog, narrowmouth toad, alligator, snapping turtle, striped mud turtle, mud turtle, eastern mud snake, cottonmouth, woodstork, wood duck, swallow-tailed kite, barred owl, pileated woodpecker, great-crested flycatcher, prothonotary warbler, and rusty blackbird.

Dome Swamps typically develop in sandy flatwoods and in karst areas where sand has slumped around or over a sinkhole, creating a conical depression. Soils are composed of peat, which becomes thickest toward the center of the dome, and are generally underlain with acidic sands and then limestone, although other subsoils may also occur. Some domes have a clay lens that helps retain water levels.

Dome Swamps often derive much of their water through runoff from surrounding uplands, but they may also be connected with underground channels, in which case subterranean flows would dominate the hydrological regime. Dome Swamps generally function as reservoirs that recharge the aquifer when adjacent water tables drop during drought periods. The normal hydroperiod for Dome Swamps is 200 to 300 days per year with water being deepest and remaining longest near the center of the dome.

Fire is essential for the maintenance of a cypress dome community. Without periodic fires, hardwood invasion and peat accumulation would convert the dome to Bottomland Forest or Bog. Dome Swamps dominated by bays are close to this transition. Fire frequency is greatest at the periphery of the dome and least in the interior where long hydroperiods and deep peat maintain high moisture levels for most of the year. The normal fire cycle might be as short as 3 to 5 years along the outer edge and as long as 100 to 150 years towards the center. The profile of a Dome Swamp (i.e., smaller trees at the periphery and largest trees near the center) is largely attributable to this fire regime. The shorter hydroperiods

along the periphery permit fires to burn into the edge more often, occasionally killing the outer trees. Cypress is very tolerant of light surface fires, but muck fires burning into the peat can kill them, lower the ground surface, and transform a dome into a pond.

Dome Swamps may have a Depression Marsh or pond in their center, creating a doughnut appearance when viewed from above. Dome Swamps typically grade into Wet Prairie or Marl Prairie around the periphery, but they may also be bordered by Bottomland Forest or Swale. The species composition of Dome Swamps frequently overlaps with Strand Swamp, Wet Flatwoods, Basin Swamp, Baygall, Floodplain Swamp, and Freshwater Tidal Swamp.

Normal hydroperiods must be maintained. Somewhat deeper than normal water levels are not likely to do much harm, but extended hydroperiods will limit tree growth and prevent reproduction. Shortened hydroperiods will permit the invasion of mesophytic species, which will change the character of the understory and eventually allow hardwoods to replace cypress. Dome Swamps may also be degraded by pollution and the invasion of exotic plants.

Floodplain Swamp - (synonyms: river swamp, bottomland hardwoods, seasonally flooded basins or flats, oak-gum-cypress, cypress-tupelo, slough, oxbow, back swamp)

Floodplain Swamps occur on flooded soils along stream channels and in low spots and oxbows within river floodplains. Dominant trees are usually buttressed hydrophytic trees such as cypress and tupelo; the understory and ground cover are generally very sparse. Other typical plants include ogeechee tupelo, water tupelo, swamp titi, wax myrtle, dahoon holly, myrtle-leaved holly, large gallberry, possumhaw, hurrah-bush, white alder, lizard's tail, leather fern, royal fern, marsh fern, soft rush, laurel greenbrier, hazel alder, hawthorn, and swamp privet.

Floodplain Swamps harbor a diverse array of animals including both temporary and permanent residents. Typical animals include marbled salamander, mole salamander, amphiuma, Alabama waterdog, Southern dusky salamander, two-lined salamander, three-lined salamander, dwarf salamander, slimy salamander, rusty mud salamander, southern toad, cricket frog, birdvoiced treefrog, gray treefrog, bullfrog, river frog, Southern leopard frog, alligator, river cooter, stinkpot, Southeastern five-lined skink, broadhead skink, mud snake, rainbow snake, redbelly water snake, brown water snake, glossy crayfish snake, black swamp snake, cottonmouth, yellow-crowned night-heron, wood duck, swallowtail kite, Mississippi kite, red-shouldered hawk, woodcock, barred owl, chimney swift, hairy woodpecker, pileated woodpecker, Acadian flycatcher, Carolina wren, veery, white-eyed vireo, red-eyed vireo, parula warbler, prothonotary warbler, hooded warbler, Swainson's warbler, cardinal, towhee, opossum, southeastern shrew, short-tailed shrew, beaver, wood rat, rice rat, cotton mouse, golden mouse, bear, raccoon, and bobcat.

Soils of Floodplain Swamps are highly variable mixtures of sand, organic, and alluvial materials, although some sites, especially within sloughs or on smaller streams, may have considerable peat accumulation. Floodplain Swamps are flooded for most of the year, with sites along channels inundated by aerobic flowing water while those of sloughs and backswamps are flooded with anerobic water for extensive periods of time. Soils and hydroperiods determine species composition and community structure. Seasonal and often prolonged inundations restrict the growth of most shrubs and herbs, leaving most of the ground surface open or thinly mantled with leaf litter. Floods redistribute detrital accumulations to other portions of the floodplain or into the main river channel. This rich organic debris is essential to the functional integrity of downriver ecosystems such as estuaries. These swamps are usually too wet to support fire.

Floodplain Swamps are often associated with and grade into Floodplain Forest or Hydric hammock, and occasionally Baygall. The species composition of Floodplain Swamps is frequently similar to the Slough, Strand Swamp, Dome Swamp, and Basin Swamp communities. Alteration of the hydroperiod by impoundments or river diversions and the disruption of floodplain communities by forestry or agriculture have devastating consequences to entire river and bay systems. Many plant and animal species, both onsite and down river, depend upon the presence and natural fluctuations of these swamps for survival and reproduction.

Hydric Hammock - (synonyms: wetland hardwood hammock, wet hammock)

Hydric Hammock is characterized as a well developed hardwood and cabbage palm forest with a variable understory often dominated by palms and ferns. Typical plants include cabbage palm, diamond-leaf oak, red cedar, red maple, swamp bay, sweetbay, water oak, southern magnolia, wax myrtle, saw palmetto, bluestem palmetto, needle palm, poison ivy, dahoon holly, myrsine, hackberry, sweetgum, loblolly pine, Florida elm, swamp chestnut oak, American hornbeam, Walter viburnum, royal fern, peppervine, rattanvine, yellow jessamine, and Virginia creeper.

Typical animals include green anole, flycatchers, warblers, and gray squirrel. Hydric Hammock occurs on low, flat, wet sites where limestone may be near the surface and frequently outcrops. Soils are sands with considerable organic material that, although generally saturated, are inundated only for short periods following heavy rains. The normal hydroperiod is seldom over 60 days per year. Because of their generally saturated soils and the sparsity of herbaceous ground cover, Hydric Hammocks rarely burn.

Hydric Hammock occurs as patches in a variety of lowland situations, often in association with springs or karst seepage, and in extensive forests covering lowlands just inland of coastal communities. Hydric Hammock generally grades into Floodplain Swamp, Strand Swamp, Basin Swamp, Baygall, Wet Flatwoods, Coastal Berm, Maritime Hammock, Slope Forest, Upland Mixed Forest, or Upland Hardwood Forest. Hydric Hammock is often difficult to differentiate from Bottomland Forest, Prairie Hammock, and Floodplain Forest.

The normal hydrological regime must be maintained in Hydric Hammock. If the water table is lowered, Hydric Hammock will gradually change to mesic conditions. If the hammock is flooded, many trees will die and eventually be replaced by more hydrophytic species.

Maritime Hammock - (synonyms: coastal hammock, maritime forest, tropical hammock). Maritime Hammock is characterized as a narrow band of hardwood forest lying just inland of the Coastal Strand community. Live oak, cabbage palm, and redbay generally combine to form a dense, wind-pruned canopy whose streamlined profile deflects winds and generally prevents hurricanes from uprooting the trees. Other typical plants include American holly, southern magnolia, red cedar, sea grape, false mastic, paradise tree, lancewood, gumbo- limbo, strangler fig, poisonwood, wild olive, saw palmetto, beautyberry, poison ivy, coral bean, coontie, prickly ash, wild coffee, snowberry, myrsine, caper tree, marlberry, rouge-plant, and ferns.

Typical animals include squirrel treefrogs, ring-necked snake, rat snakes, and gray squirrel. Migrating birds rely on these forests for food and shelter following trans-oceanic or trans-gulf migrations.

Maritime Hammock occurs on old coastal dunes that have been stabilized long enough for the growth of a forest. Tree growth often begins in swales between old dune ridges where a higher moisture gradient exists. The isolated strips of tree growth gradually coalesce into a continuous forest. Humus buildup contributes to moisture retention, while the dense canopy minimizes temperature fluctuations by reducing soil warming during the day and heat loss at night. Soils of Maritime Hammock are generally well-drained because of the underlying deep sands.

The generally mesic conditions and insular locations of well-developed Maritime Hammock communities inhibit natural fires, which occur no more frequently than once every 26 to 100 years. In mature Maritime Hammock, fire may alter the original appearance, obscuring former beach ridge vegetation patterns and creating a diversity of plant sub-associations.

Nutrient recycling is generally accomplished by detrital organisms instead of by fire. Maritime Hammock is closely associated with and often grades into Coastal Strand, Scrub, Hydric Hammock, or Prairie Hammock. Because of species overlap, Maritime Hammock may also be confused with Shell Mound, Coastal Berm, Xeric Hammock, and Rockland Hammock. Maritime Hammock is the terminal stage of succession in coastal areas.

Maritime Hammock is prime resort and residential property because of its relatively protected location along the coast. Although it originally occurred in virtually continuous bands with Coastal Strand, Maritime Hammock is now dissected into short strips by development and is rapidly disappearing. Maritime Hammock is reasonably resilient so long as the canopy remains intact and the landform stable. Removal of large exotic species should be conducted in phases to minimize canopy disruptions.

Flatwoods/Prairie/Marsh Lake - (synonyms: Flatwoods pond, ephemeral pond, grass pond, St. John's wort pond, freshwater lake, pineland depression, swale, prairie pond)

The distinctions between these communities, and from Depression Marsh, are often quite subtle, because of their successional interrelationships. Depression Marsh is characterized as a shallow, generally round or elliptical depression vegetated with concentric bands of hydrophytic herbaceous plants. Depending upon the depth and slope of the depression, an open water zone with or without floating plants may occur at the center. The open water zone is considered to be a Marsh Lake if it is small in comparison to the surrounding marsh. Otherwise, the system is considered to be a Flatwoods Lake or a Prairie Lake, depending upon the surrounding community.

Both Flatwoods Lake and Prairie Lake are surrounded by either a sparse, Wet Prairie-like zone or a dense ring of saw palmetto and other shrubs. Typical plants include spikerush, yelloweyed grasses, St. John's wort, chain fern, coastal plain willow, maidencane, wax myrtle, water primrose, floating heart, buttonbush, fire flag, pickerelweed, arrowhead, bladderworts, bottlebrush threeawn, toothache grass, star rush, bulrushes, sawgrass, and nut sedge. Many animals utilize marshes primarily for feeding and breeding areas but spend most of their time in other habitats. Other animals are more dependent on marshes, spending most of their time within them. Typical animals include amphiuma, lesser siren, greater siren, cricket frog, green treefrog, bullfrog, pig frog, leopard frog, alligator, eastern mud snake, banded water snake, green water snake, striped crayfish snake, black swamp snake, American bittern, least bittern, great blue heron, great egret, snowy egret, little blue heron, tricolored heron, green-backed heron, black-crowned night-heron, white ibis, glossy ibis, bald eagle, northern harrier, king rail, Virginia rail, sora, limpkin, long-billed marsh wren, yellowthroat, red-winged blackbird, boat tailed grackle, and Florida water rat.

The depressions in which these communities develop are typically formed by one of two geological processes: (1) solution holes form in the underlying limestone, causing surface sands to slump into a circular depression; or (2) during higher sea levels, offshore currents, waves, and winds scoured depressions that became seasonally or permanently inundated after the seas regressed. Soils in these depressions generally consist of acidic sands with some peat and occasionally a clay lens.

Water is derived mostly from runoff from the immediately surrounding uplands. These NC's function as aquifer recharge areas by acting as reservoirs which release groundwater when adjacent water tables drop during drought periods. Water generally remains throughout the year in a Flatwoods/Prairie Lake or a Marsh Lake, although water levels may fluctuate substantially.

Mesic Flatwoods - (synonyms: pine flatwoods, pine savannahs, pine barrens)

Mesic Flatwoods are characterized as an open canopy forest of widely spaced pine trees with little or no understory but a dense ground cover of herbs and shrubs. Several variations of Mesic Flatwoods are recognized, the most common associations being longleaf pine - wiregrass - runner oak and slash pine - gallberry - saw palmetto. Other typical plants include: St. Johns-wort, dwarf huckleberry, fetterbush, dwarf wax myrtle, stagger bush, blueberry, gopher apple, tar flower, bog buttons, blackroot, false foxglove, white-topped aster, yellow-eyed grass, and cutthroat grass.

Typical animals of Mesic Flatwoods include: oak toad, little grass frog, narrowmouth toad, black racer, red rat snake, southeastern kestrel, brown-headed nuthatch, pine warbler, Bachman's sparrow, cotton rat, cotton mouse, black bear, raccoon, gray fox, bobcat, and white-tailed deer.

Mesic Flatwoods occur on relatively flat, moderately to poorly drained terrain. The soils typically consist of 1-3 feet of acidic sands generally overlying an organic hardpan or clayey subsoil. The hardpan substantially reduces the percolation of water below and above its surface.

During the rainy seasons, water frequently stands on the hardpan's surface and briefly inundates much of the flatwoods; while during the drier seasons, ground water is unobtainable for many plants whose roots fail to penetrate the hardpan. Thus, many plants are under the stress of water saturation during the wet seasons and under the stress of dehydration during the dry seasons.

Another important physical factor in Mesic Flatwoods is fire, which probably occurred every 1 to 8 years during pre-Columbian times. Nearly all plants and animals inhabiting this community are adapted to periodic fires; several species depend on fire for their continued existence. Without relatively frequent fires, Mesic Flatwoods succeed into hardwood-dominated forests whose closed canopy can essentially eliminate the ground cover herbs and shrubs.

Additionally, the dense layer of litter that accumulates on unburned sites can eliminate the reproduction of pines which require a mineral soil substrate for proper germination. Thus, the integrity of the Mesic Flatwoods community is dependent on periodic fires. However, fires that are too frequent or too hot would eliminate pine recruitment and eventually transform Mesic Flatwoods into Dry Prairie.

Mesic Flatwoods are closely associated with and often grade into Wet Flatwoods, Dry Prairie, or Scrubby Flatwoods. The differences between these communities are generally related to minor topographic changes. Wet Flatwoods occupy the lower wetter areas, while Scrubby Flatwoods occupy the higher drier areas.

Mesic Flatwoods are the most widespread biological community in Florida, occupying an estimated 30 to 50% of the state's uplands. However, very few undisturbed areas of

Mesic Flatwoods exist because of habitat mismanagement and silvicultural, agricultural, or residential development. Mesic Flatwoods are often fairly resilient, and with proper management they can generally be restored.

Sandhill - (synonyms: longleaf pine - turkey oak, longleaf pine - xerophytic oak, longleaf pine - deciduous oak, high pine)

Sandhills are characterized as a forest of widely spaced pine trees with a sparse understory of deciduous oaks and a fairly dense ground cover of grasses and herbs on rolling hills of sand. The most typical associations are dominated by longleaf pine, turkey oak, and wiregrass. Other typical plants include bluejack oak, sand post oak, sparkleberry, persimmon, winged sumac, pinewoods dropseed, Indian grass, wild buckwheat, queen's delight, yellow foxglove, bracken fern, runner oak, goats rue, partridge pea, milk pea, dollarweeds, wild indigo, gopher apple, and golden-aster. Typical animals include tiger salamander, barking treefrog, spadefoot toad, gopher frog, gopher tortoise, worm lizard, fence lizard, mole skink, indigo snake, coachwhip snake, pine snake, short-tailed snake, crowned snake, eastern diamondback rattlesnake, bobwhite, ground dove, red-headed woodpecker, rufous-sided towhee, fox squirrel and pocket gopher.

Sandhills occur on hilltops and slopes of gently rolling hills. Their soils are composed of deep, marine-deposited, yellowish sands that are well-drained and relatively sterile. The easily leached soil nutrients are brought back to the surface by the burrowing habits of some sandhill animals. Sandhills are important aquifer recharge areas because the porous sands allow water to move rapidly through with little runoff and minimal evaporation. The deep sandy soils help create a xeric environment that is accentuated by the scattered overstory, which allows more sunlight to penetrate and warm the ground. The absence of a closed canopy also allows Sandhills to cool more rapidly at night and to retain less air moisture. Thus, temperature and humidity fluctuations are generally greater in Sandhills than in nearby closed canopy forests.

Fire is a dominant factor in the ecology of this community. Sandhills are a fire climax community, being dependent on frequent ground fires to reduce hardwood competition and to perpetuate pines and grasses. The natural fire frequency appears to be every 2 to 5 years. Without frequent fires, Sandhills may eventually succeed to Xeric Hammock. Unburned or cutover Sandhills may be dominated by turkey oak.

Sandhills are often associated with and grade into Scrub, Scrubby Flatwoods, Mesic Flatwoods, Upland Pine Forest, or Xeric Hammock. Sandhills were widespread throughout the Coastal Plain, but most have been degraded by timbering, overgrazing, plowing, fire exclusion, and other disturbances. Much of Florida's Sandhill communities have been converted to citrus groves, pastures, pine plantations, or residential and commercial developments. Thus, the importance of properly managing the remaining tracts is accentuated.

Scrub - (synonyms: sand pine scrub, Florida scrub, sand scrub, rosemary scrub, oak scrub)

Scrub occurs in many forms, but is often characterized as a closed to open canopy forest of sand pines with dense clumps or vast thickets of scrub oaks and other shrubs dominating the understory. The ground cover is generally very sparse, being dominated by ground lichens or, rarely, herbs. Open patches of barren sand are common. Where the overstory of sand pines is widely scattered or absent altogether, the understory and barren sands are exposed to more intense sunlight. Typical plants include sand pine, sand live oak, myrtle oak, Chapman's oak, scrub oak, saw palmetto, rosemary, rusty lyonia, ground lichens, scrub hickory, scrub palmetto, hog plum, silk bay, beak rush, milk peas, and stagger bush. Typical animals include red widow spider, scrub wolf spider, oak toad, Florida scrub lizard, blue-tailed mole skink, sand skink, sixlined racerunner, coachwhip, ground dove, scrub jay, loggerhead shrike, yellow-rumped warbler, rufous-sided towhee, Florida mouse, and spotted skunk. Scrubs of the Lake Wales Ridge are notable for the large number of narrowly endemic plants and animals that occur in them.

Scrub occurs on sand ridges along former shorelines. Some of the sand ridges originated as wind-deposited dunes, others as wave-washed sand bars. Some Scrub soils are composed of well-washed, deep sands that are brilliant white at the surface; some Scrubs occur on yellow sands. The loose sands drain rapidly, creating very xeric conditions for which the plants appear to have evolved several water conservation strategies.

Scrub is essentially a fire maintained community. Ground vegetation is extremely sparse and leaf fall is minimal, thus reducing the chance of frequent ground fires. As the sand pines mature, however, they retain most of their branches and build up large fuel supplies in their crowns. When a fire does occur, this fuel supply, in combination with the resinous needles and high stand density, ensures a hot, fast burning fire. Such fires allow for the regeneration of the Scrub community which might otherwise succeed to Xeric Hammock. The minerals in the vegetation are deposited on the bare sand as ashes, and the heat of the fire generally facilitates the release of pine seeds. As discerned from the life histories of the dominant plants, scrub probably burns catastrophically once every 20 to 80 years or longer.

Scrub is associated with and often grades into Sandhill, Scrubby Flatwoods, Coastal Strand, and Xeric Hammock. Some Xeric Hammocks are advanced successional stages of Scrub, making intermediate stages difficult to classify. Scrub occurs almost exclusively in Florida, although coastal scrubs extend into adjacent Alabama and Georgia.

Because Scrub occurs on high dry ground and is not an aesthetically pleasing habitat, at least to the uninitiated, this ecosystem and its many endangered and threatened species

are rapidly being lost to development. Scrub is also readily damaged by off-road vehicle traffic or even foot traffic, which destroys the delicate ground cover and allows the loose sand to erode. Ground lichens may require 50 years or more to recover.

Scrubby Flatwoods - (synonyms: xeric flatwoods, dry flatwoods)

Scrubby Flatwoods are characterized as an open canopy forest of widely scattered pine trees with a sparse shrubby understory and numerous areas of barren white sand. The vegetation is a combination of Scrub and Mesic Flatwoods species; Scrubby Flatwoods often occupy broad transitions or ecotones between these communities. Typical plants include longleaf pine, slash pine, sand live oak, Chapman's oak, myrtle oak, scrub oak, saw palmetto, staggerbush, wiregrass, dwarf blueberry, gopher apple, rusty lyonia, tarflower, golden-aster, lichens, silkbay, garberia, huckleberry, goldenrod, runner oak, pinweeds, and frostweed.

Scrubby Flatwoods generally occur intermingled with Mesic Flatwoods along slightly elevated relictual sandbars and dunes. The white sandy soil is several feet deep and drains rapidly. However, the water table is unlikely to be very deep. Scrubby Flatwoods normally do not flood even under extremely wet conditions. Temperatures and humidities of air and soil in Scrubby Flatwoods fluctuate substantially more than in most other communities because the scattered overstory, sparse understory, and barren sands of Scrubby Flatwoods do not ameliorate daily and seasonal changes very well.

Although the elevated, deeper sandy soils of scrubby flatwoods engender a drier environment than the surrounding mesic flatwoods, the general sparsity of ground vegetation and the greater proportion of relatively incombustible scrub-oak leaf litter reduces the frequency of naturally occurring fires. Only after a long absence of fire and during periods of drought does the leaf litter become sufficiently combustible and concentrated enough to support an ecological burn. Several species of plants in Scrubby Flatwoods are typical scrub plants which endure only when long intervals between fires occur. Thus, a periodicity of approximately 8 to 25 years between fires appears to be natural for this community.

Scrubby Flatwoods are associated with and often grade into Mesic Flatwoods, Scrub, Dry Prairie or Sandhills. This community is essentially a Mesic Flatwoods with a Scrub understory.

River Floodplain Lake and Swamp Lake - (synonyms: cypress pond, gum pond, oxbow lake, backwater, blackwater lake or pond)

Swamp Lakes and River Floodplain Lakes are generally characterized as shallow open water zones, with or without floating and submerged aquatic plants, that are surrounded by Basin Swamp or Floodplain Swamp. They are generally permanent water bodies,

although water levels often fluctuate substantially and they may become completely dry during extreme droughts. They are typically lentic water bodies occurring in confined basins or depressions. However, during floods or following heavy rains, they may exhibit decidedly lotic characteristics, flowing with the flood water or overflowing their banks into lower topographic areas. Some may even exhibit a slow perennial sheet flow, but water movement is generally so slow that lentic conditions prevail.

Except for the fringe of hydrophytic trees, shrubs and scattered emergents, plants may be absent altogether, or they may almost completely cover the water surface. When present, typical plants include fragrant water lily, banana lily, American lotus, spatterdock, duckweed, water meal, bog mat, water fern, dollar bonnet, frog's bit, water hyssop, water pennywort, coontail, milfoil, bladderwort, bog moss, and fanworts. Several exotic plants may also occur, including water lettuce, water hyacinth, salvinia, alligator weed, water spinach, parrot's feather, water chestnut, water sprite, hydrilla, and elodea. Scattered emergent plants such as lizard's tail, pickerelweed, slender spikerush and golden club may also occur, but the community will more appropriately be called Depression Marsh or Floodplain Marsh if emergents dominate the water body.

Typical animals include Florida gar, bowfin, redfin pickerel, golden shiner, taillight shiner, lake chubsucker, brown bullhead, tadpole madtom, pirate perch, golden topminnow, pygmy killifish, mosquito fish, flier, blue spotted sunfish, bluegill, largemouth bass, swamp darter, mole salamander, two-toed amphiuma, Alabama waterdog, sirens, cricket frog, bullfrog, pig frog, river frog, leopard frog, alligator, snapping turtle, Florida cooter, yellow-belly turtle, eastern mud turtle, stinkpot, Florida softshell turtle, mud snake, redbelly water snake, banded water snake, brown water snake, cottonmouth, great blue heron, great egret, snowy egret, little blue heron, green-backed heron, white ibis, wood stork, kingfisher, beaver, and river otter.

The substrates of Swamp Lakes and River Floodplain Lakes are variable and may be composed primarily of peats, sands, alluvial clays, or any combination of these. Swamp Lakes characteristically have highly colored, acidic, soft water with moderate mineral content, while River Floodplain Lakes characteristically have colored, alkaline or slightly acidic, hard or moderately hard water with high mineral content (sulfate, chloride, calcium, magnesium). Both types are generally mesotrophic to eutrophic (i.e., have moderate to high nutrient levels and primary productivity), although they sometimes exhibit partial oligotrophic characteristics, with low nutrient levels and primary productivity, because their darkly stained, acidic waters and surrounding tree canopy limit their productivity.

Swamp Lakes may have originated from one or more of the following geological processes: (1) solution of the underlying limestone and subsequent collapse of the surface to form a depression; (2) lowering of sea levels to isolate ancient coastal features, such as lagoons or dune swales; or (3) isolation of ancient river systems within relatively confined basins. River Floodplain Lakes generally originate along former stream channels as oxbows that

have been isolated when new channels cut across a meander loop in the river, or along erosion scours formed by the tremendous forces of floodstage waters. They may also have been influenced by some of the processes that developed Swamp Lakes, or be the result of "nature's engineer", the beaver.

Swamp Lakes and River Floodplain Lakes are important breeding areas for many terrestrial and semi-aquatic amphibians. They are frequently very important feeding areas for many wading birds, ducks, and reptiles. They are also important nursery grounds and habitats for several species of fish. Swamp Lakes and Floodplain Lakes are extremely vulnerable to hydrological manipulations which lower the water levels and hasten successional processes.

They are also vulnerable to land clearing and timber harvest operations within the surrounding swamps or adjacent uplands. Upland activities generally increase sedimentation, while activities within the swamp may increase insolation levels, alter nutrient levels and, in the case of Floodplain Lakes, increase the effects of flood scouring.

Tidal Marsh - (synonyms: saltmarsh, brackish marsh, coastal wetlands, coastal marshes, tidal wetlands)

Marine and Estuarine Tidal Marshes are Floral Based Natural Communities generally characterized as expanses of grasses, rushes and sedges along coastlines of low waveenergy and river mouths. They are most abundant and most extensive in Florida north of the normal freeze line, being largely displaced by and interspersed among Tidal Swamps below this line. Black needlerush and smooth cordgrass are indicator species which usually form dense, uniform stands. The stands may be arranged in well-defined zones according to tide levels or may grade subtly over a broad area, with elevation as the primary determining factor. In the upper reaches of river mouths, where Estuarine Tidal Marsh begins to blend with Freshwater Tidal Swamp and Marsh, sawgrass may occur in dense stands. Sawgrass is the least salt tolerant of these Tidal Marsh species. Other typical plants include saltgrass, saltmeadow cordgrass (marsh hay), gulf cordgrass, soft rush and other rushes, salt myrtle, marsh elder, saltwort, sea oxeye, cattail, big cordgrass, bulrushes, seashore dropseed, seashore paspalum, shoregrass, glassworts, seablight, seaside heliotrope, saltmarsh boltonia, and marsh fleabane. Typical animals include marsh snail, periwinkle, mud snail, spiders, fiddler crabs, marsh crab, green crab, isopods, amphipods, diamondback terrapin, saltmarsh snake, wading birds, waterfowl, osprey, rails, marsh wrens, seaside sparrows, muskrat and raccoon.

Fishes frequently found in this community include blacktip shark, lemon shark, bonnethead shark, hammerhead shark, southern stingray, yellow spotted ray, tarpon, ladyfish, bonefish, menhaden, sardines, anchovy, catfish, needlefish, killifish, bluefish, blue runner, lookdown, permit, snapper, grunts, sheepshead, porgies, pinfish, seatrout, red drum, mullet, barracuda, blenny, goby, trigger fish, filefish, and puffers.

Tidal Marsh soils are generally very poorly drained muck or sandy clay loams with substantial organic components and often a high sulfur content. The elevation of Tidal Marshes range from just below sea level to slightly above sea level with vegetation occupying the intertidal and supratidal zones. The frequently high density of plant stems and roots effectively traps sediments derived from upland runoff or from littoral and storm currents. The decaying, dead marsh plants and the transported detritus which the living plants trap, accumulate to form peat deposits. Together, these accretion processes may build land.

Tidal Marsh plants live under conditions which would stress most plants. High salt content in the soil, poor soil aeration, frequent submersion and exposure, intense sunlight, and occasional fires make the Tidal Marsh community inhospitable to most plants and require a wide tolerance limit for its inhabitants. The landward extent of Tidal Marsh along the shoreline is directly related to the degree of bottom slope; the more gradual the slope the broader the community band. Typical zonation in this community includes smooth cordgrass in the deeper edges, grading to salt tolerant plants such as black needlerush that withstand less inundation.

Tidal fluctuation is the most important ecological factor in Tidal Marsh communities, cycling nutrients and allowing marine and estuarine fauna access to the marsh. This exchange helps to make Tidal Marsh one of the most biologically productive Natural Communities in the world. In fact, primary productivity in Tidal Marshes surpasses that of most intensive agricultural practices. The former operates at no cost because of free energy subsidies from tides, while the latter requires costly energy subsidies in the form of fuels, chemicals, and labor.

A myriad of invertebrates and fish, including most of the commercially and recreationally important species such as shrimp, blue crab, oysters, sharks, grouper, snapper and mullet, also use Tidal Marshes throughout part or all of their life cycles. Tidal Marshes are also extremely important because of their storm buffering capacity and their pollutant filtering actions. The dense roots and stems hold the unstabilized soils together, reducing the impact of storm wave surge. The plants, animals, and soils filter, absorb, and neutralize many pollutants before they can reach adjacent marine and estuarine communities.

These factors make Tidal Marshes extremely valuable as a Natural Community. Adverse impacts of urban development of Tidal Marshes include degradation of water quality, filling of marshes, increased erosion, and other alterations such as bulkheading and beach renourishment. The most attractive coastal areas for development activities frequently are the most ecologically fragile and are extremely vulnerable to development of any kind. Offshore pollution in the form of oil spills and various forms of litter jettisoned from shipping traffic also impact Tidal Marsh.

Wet Flatwoods - (synonyms: low flatwoods, moist pine barren, hydric flatwoods,

pondpine flatwoods, pocosin, cabbage palm/pine savannah or flatwoods). Wet Flatwoods are characterized as relatively open-canopy forests of scattered pine trees or cabbage palms with either thick shrubby understory and very sparse ground cover, or a sparse understory and a dense ground cover of hydrophytic herbs and shrubs. Several variations exist between these extremes

Typical plants include pond pine, slash pine, sweetbay, spikerush, beakerush, sedges, dwarf wax myrtle, gallberry, titi, saw palmetto, creeping beggarweed, deer tongue, gay feather, greenbrier, bluestem, and pitcher plants. Typical animals include oak toad, cricket frog, chorus frog, black racer, yellow rat snake, diamondback rattlesnake, pygmy rattlesnake, red-shouldered hawk, bobwhite, opossum, cottontail rabbit, cotton rat, cotton mouse, raccoon, striped skunk, bobcat, and white-tailed deer.

Wet Flatwoods occur on relatively flat, poorly drained terrain. The soils typically consist of 1 to 3 feet of acidic sands generally overlying an organic hardpan or clay layer. Cabbage palm flatwoods tend to occur on more circumneutral sands (pH 6.0 - 7.5) underlain by marl or shell beds. The hardpan substantially reduces the percolation of water below and above its surface.

During the rainy season, water frequently stands on the surface, inundating the flatwoods for 1 or more months per year. During the drier seasons, ground water is less accessible for many plants whose roots fail to penetrate the hardpan. Thus, many plants are under the stress of water saturation during the wet seasons, and under the stress of dehydration during the dry seasons.

Another important physical factor in Wet Flatwoods is fire. Natural fires probably occurred every 3 to 10 years during pre-Columbian times. Nearly all plants and animals inhabiting this community are adapted to periodic fires, and several species depend on fires for their continued existence. Without relatively frequent fires, Wet Flatwoods succeed into hardwood dominated forests whose closed canopy would essentially eliminate the ground cover herbs and shrubs. In fact, much of the variation in community structure is probably associated with fire frequency. Thus, the longer the period of time since the last fire, the more developed will be the understory shrubs. If the understory is allowed to grow for too long, the accumulation of needle drape and the height of flammable understory shrubs will increase the probability of a catastrophic canopy fire.

Wet Flatwoods are closely associated with and often grade into Hydric Hammock, Mesic Flatwoods, Wet Prairie, or Basin Swamp. Wet Flatwoods may also grade into Dome Swamp or Strand Swamp, but the absence of a Wet Prairie ecotone suggests that the hydrology has been disturbed.

Although Wet Flatwoods may have been an abundant biological community of the

Coastal Plain at one time, examples with an intact overstory and understory, without exotics, and with the potential for future maintenance by fire are rare. They are relatively resilient to overstory damage but recover poorly when the ground cover or hydrology has been disturbed.

Wet Flatwoods are vulnerable to disruptions of fire and hydrological regimes. Exotic plants readily invade Wet Flatwoods in south Florida and must be controlled promptly.

The coastal dune system is a dynamic and threatened ecosystem ranked G4, which is defined as globally rare in the Florida Natural Areas Inventory. This system is important to beach stabilization and protection from storm events. Coastal vegetation occurs in zones parallel to the coast. These zones are frontal dune zone, backdune zone and forest zone. The frontal dune zone consists of mainly grasses and other herbaceous plants and has the most exposure of salt spray. The backdune zone supports trees, shrubs and vines as well as grasses and other herbaceous plants. The forest zone is composed of primarily woody vegetation such as low growing saw palmetto, cabbage palm and live oak forests. Typical animals include ghost crab, kestrel, red-winged blackbird, savannah sparrows, beach mouse and raccoon.



Haw Creek Preserve

APPENDIX FOUR PROJECT APPLICATION



Washington Oaks State Park

Flagler County Land Acquisition Committee (LAC) Environmentally Sensitive Lands Acquisition Program Application Form

Site Name: _____

Submitted by:_____Date Submitted:_____

Contact (email/phone): _____

Property Owner: _____

Contact (email/phone): _____

1. Property Size:_____
2. Flagler County Tax Parcel Identification Number:_____
3. Site Location (*Please attach a location map delineating the site and describe it's location*):_____
4. Provide additional comments the LAC should know regarding this potential acquisition. Please consider the program objectives attached to this form when providing comments. (*Please attach extra pages if necessary*):_____

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface. There is no handwriting or other markings on the paper.

Tim Telfer
Flagler County Board of County Commissioners
1769 E. Moody Blvd.
Bunnell, FL 32110
(386) 313-4066
FAX (386) 313-4109

**Owner's Authorized Representative
To the Flagler County Board of County Commissioners
for the Environmentally Sensitive Lands Program**

In accordance with CH. 253, Florida Statute, this is to advise that the individual named below is the authorized representative of the owner(s) for the real property described below, which is located in Flagler County, Florida, for any negotiations concerning conveyance of the property to the Flagler County Board of County Commissioners.

AUTHORIZED REPRESENTATIVE(S):

Name(s) and Title _____

Address: _____

Telephone: _____ Fax: _____ Email: _____

Owner Name (Please Print): _____

Owner Signature: _____

Date Signed: _____

Owner Name (Please Print): _____

Owner Signature: _____

Date Signed: _____

Owner Name (Please Print): _____

Owner Signature: _____

Date Signed: _____

Owner Name (Please Print): _____

Owner Signature: _____

Date Signed: _____

AUTHORIZATION TO ENTER PROPERTY

Regarding: Land submitted to the Flagler County Environmentally Sensitive Lands Program (ESL)

I, _____, the Owner or Owner's Representative of the property described below agree that from the date this Agreement is executed, the members of the Land Acquisition Selection Advisory Committee and County staff, upon reasonable notice, shall have the right to enter the property located at

for the purposes of environmental site review and for all lawful purposes associated with the evaluation of the property for acquisition consideration under the Environmentally Sensitive Lands Program.

This permission is to be used for the following activities which may be performed by Flagler County, its agents, representatives, or contractors:

Survey of the natural community types on-site and/or property boundary survey prior to closing.

Nondestructive surveys of the flora and fauna on-site, including the identification and survey of rare, threatened, or endangered plants and animals.

The collection of written and photographic data required for comprehensive site review during the ESL site selection process or property appraisal review.

Authorized Representative Signature

Owners Signature

Date

Primary Program Objectives

- a) Preserve wildlife habitats and protect the health and diversity of wildlife, especially threatened and endangered species of plants and animals.
- b) Promote improved water quality and preserve the Floridan aquifer and water recharge areas.
- c) Preserve rare natural communities or wildlife habitats/ecosystems.
- d) Preserve unique cultural, historic, scenic and significant geologic features.
- e) Promote economic development through the creation of nature tourism property, infrastructure; and opportunities.
- f) Promote public use and enjoyment of, acquired lands including public access to water bodies for recreation activities.
- g) The area specific or need specific objectives listed on the following page.

Note: Only one Primary Area Specific or Need Specific Program Objective may be counted towards the minimum of three Primary Objectives that must be met to be listed as an A or B Project.

Secondary Program Objectives

- a) Preserve green space as passive recreation in close proximity to development to provide refuge for residents, visitors and wildlife.
- b) Reduce capital acquisition and land management costs by partnering with other agencies.
- c) Enhance existing recreation facilities throughout the County by acquiring adjoining properties.
- d) Establish wildlife corridors throughout the county promoting wildlife protection, habitat preservation and migration.
- e) Establish recreational trail corridors throughout the County promoting alternative transportation modes, nature viewing, and fitness/exercise opportunities.
- f) Restore damaged habitats that can have substantial positive environmental impacts upon being restored.

APPENDIX FIVE ADDITIONAL APPLICATION FORMS



Mala Compra Oceanfront Addition

Flagler County Environmentally Sensitive Lands Program

1769 East Moody Boulevard, Suite 309
Bunnell, Florida 32110
(386) 313-4066

Public Access and Stewardship Funds - Request for Funding

Organization Information

Organization Name _____

Contact Person _____

Email Address _____

Mailing Address _____

Phone _____ Fax _____

Organization (City or County): _____

Project Description

Project Name _____

Est. Project Start Date _____ Est. Project Completion Date _____

Brief Description of Project

Please attach a typed sheet and answer the following questions: (No longer than one page)

1. What is the intended use of funds requested for Project?
2. How will the project enhance Flagler County Environmentally Sensitive Lands?
3. What grant or other outside funding is being utilized for this project?

Funding

Amount of PASF funding Requested \$ _____

What is the total budget amount for the Project? \$ _____

***A line item budget must be submitted together with this application showing all funding sources and expenditures.**

If the entire request cannot be funded, can the project be phased for less funding? Yes No

If yes please indicate minimum amount necessary for next phase \$ _____

If the project cannot be phased, please explain.

List past ESL funding in last five (5) years:

Year	Project	Requested Amt	Award Amt	

Provide all additional outside contributors, sponsors, and sources of funding for this project. (If not applicable, please explain.)

What funding and in kind service is your organization providing?

What additional sources of funding has your organization sought?

How will ESL funding help this project?

I am the Authorized Agent of the organization requesting ESL PASF funds.
I have reviewed this Application for Funds from the Flagler County's
Environmentally Sensitive Lands manual and concur with the information submitted
herein. To the best of my knowledge and belief, the information contained in this
Application and its attachments is accurate and complete. If funds are awarded,
I agree to follow all policies of the Flagler County Environmentally Sensitive Lands
program relative to this grant.

Authorized Agent Signature

Date

Print Name: _____

Title: _____

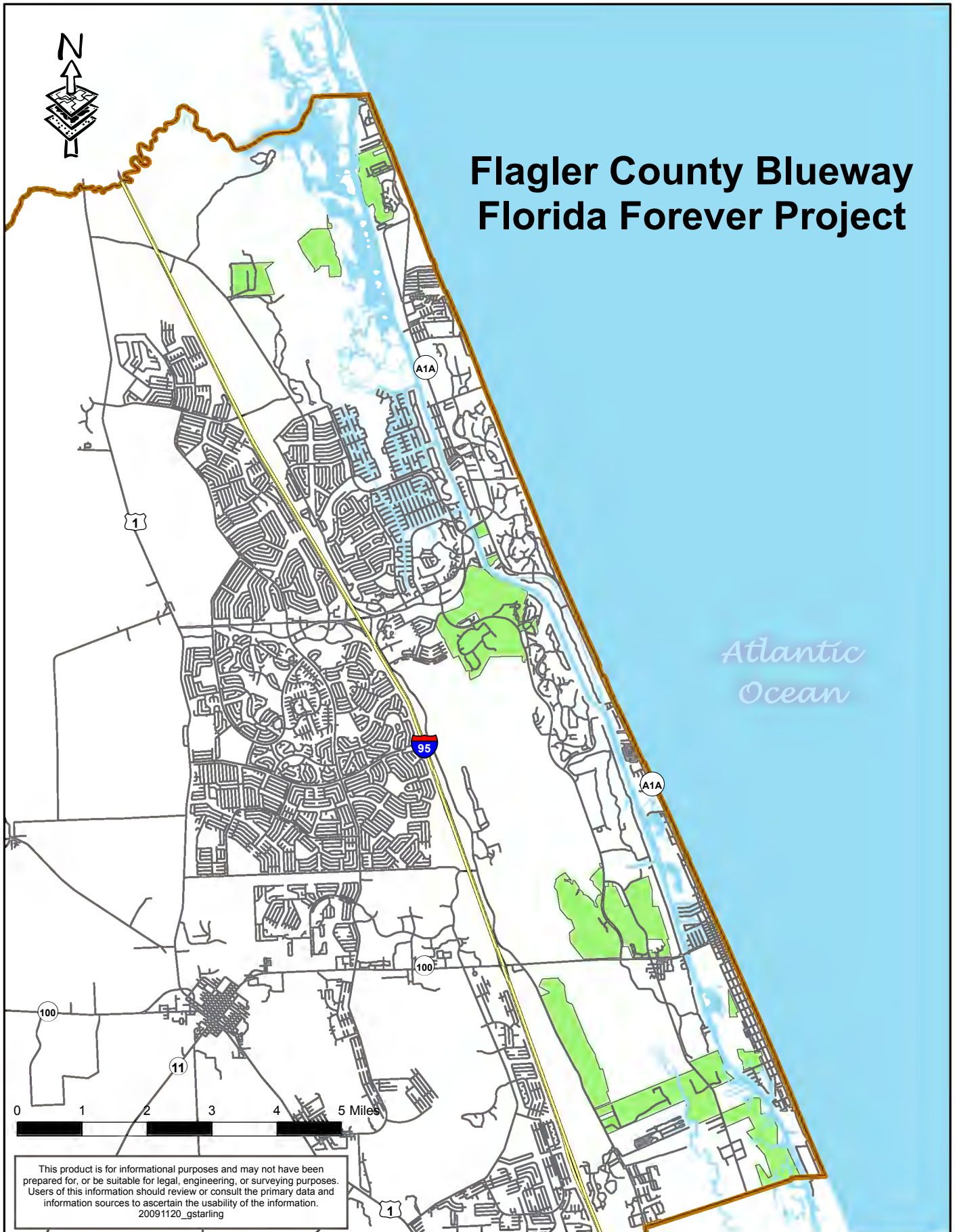
***Attach authorizing action from the elected body giving the authorized agent
authority to apply for this grant and to enter into this agreement.**

APPENDIX SIX

MAPS



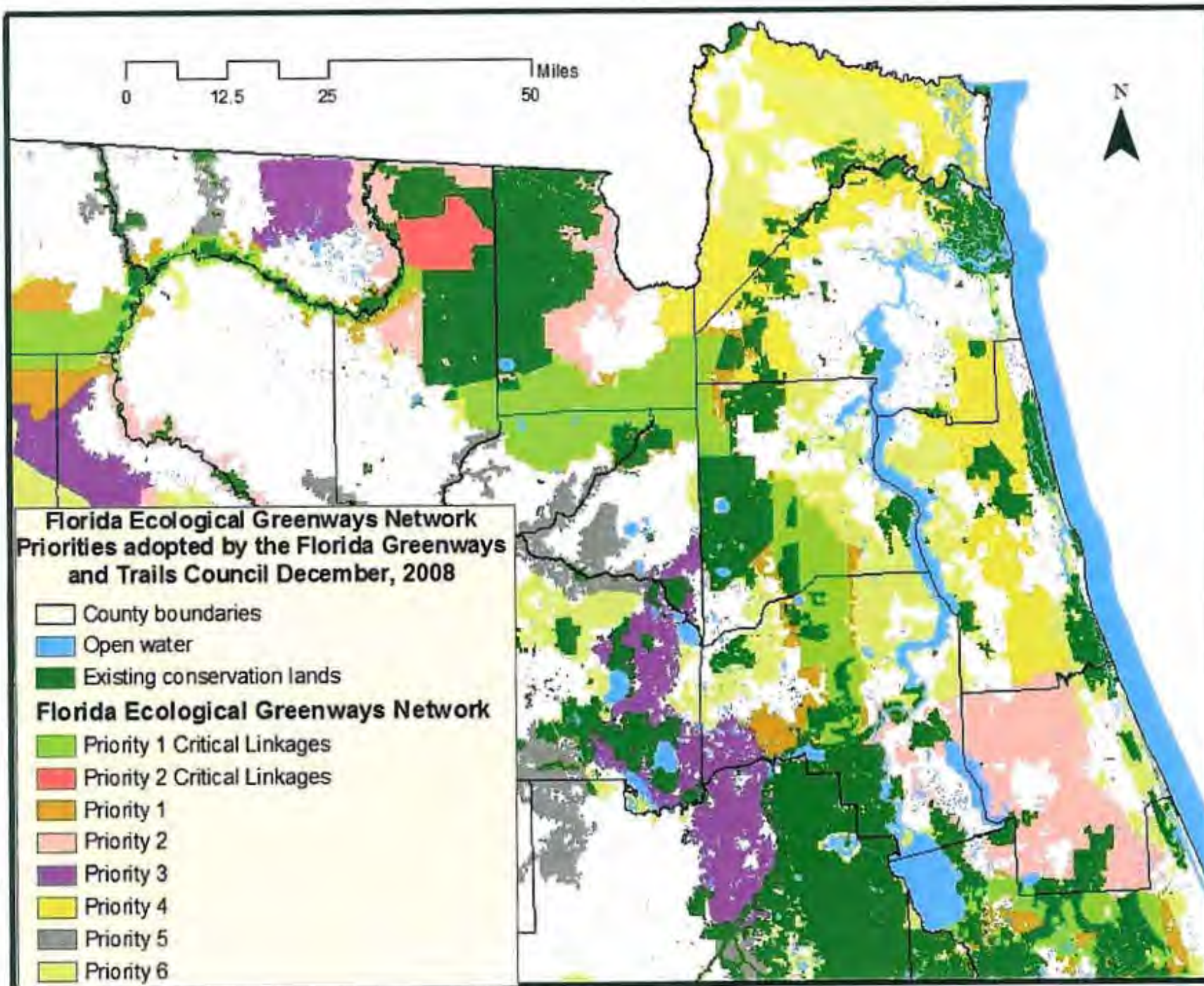
Lehigh Trail

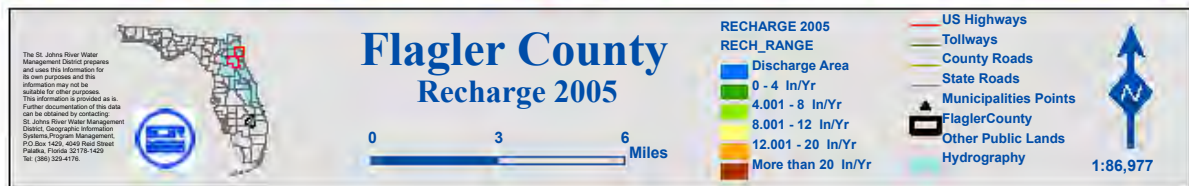
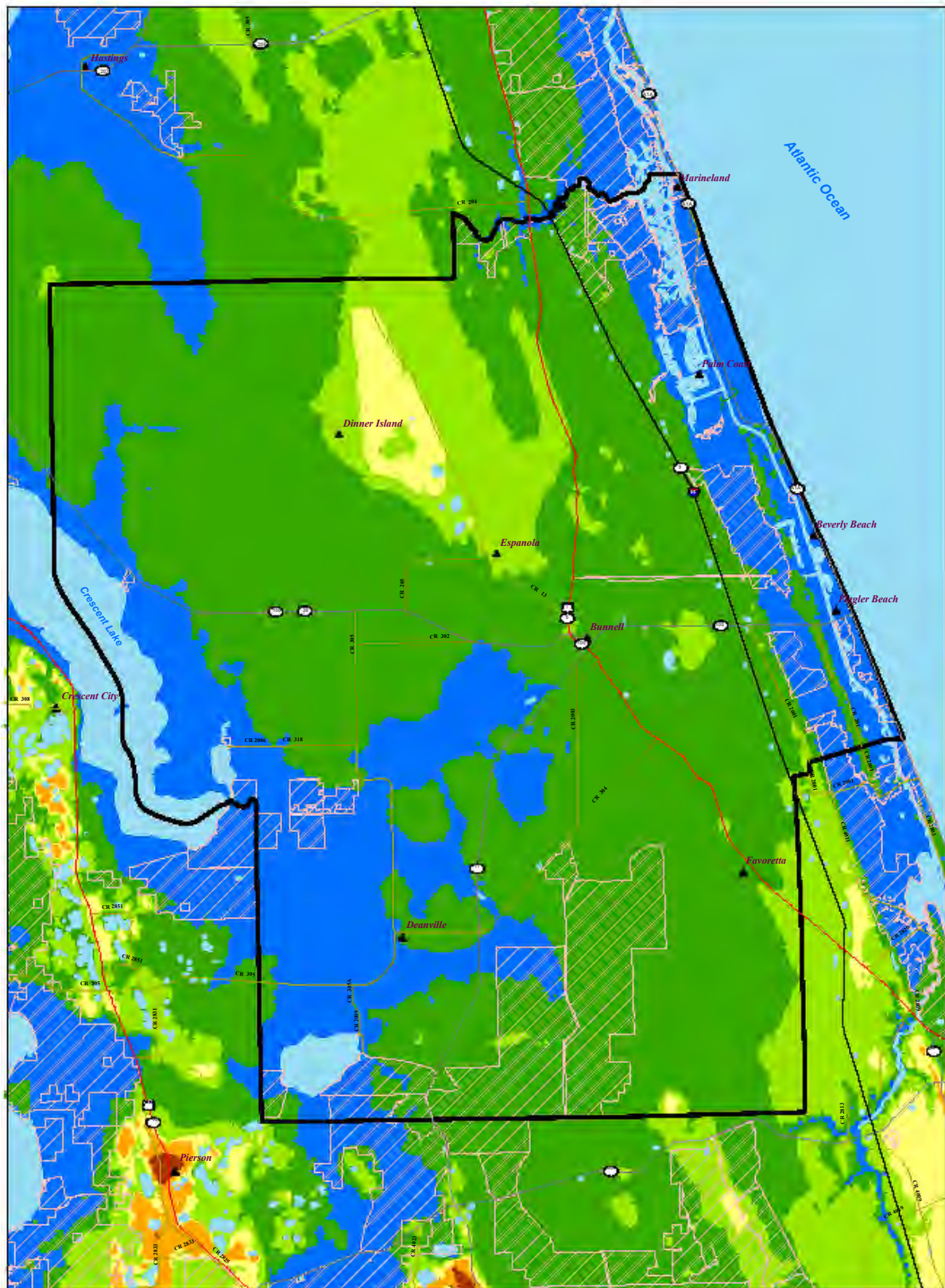


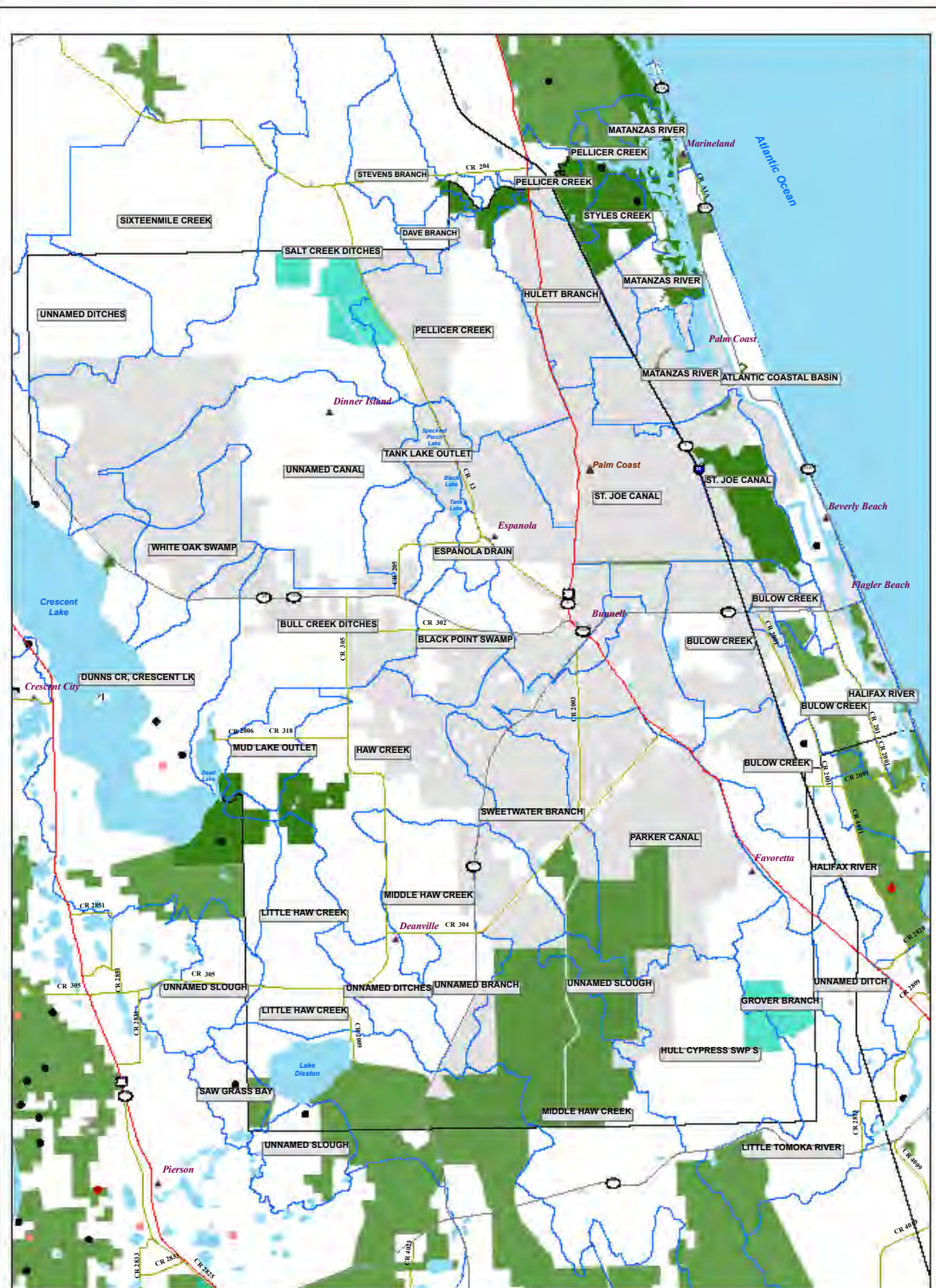
Flagler County Blueway Florida Forever Project

*Atlantic
Ocean*

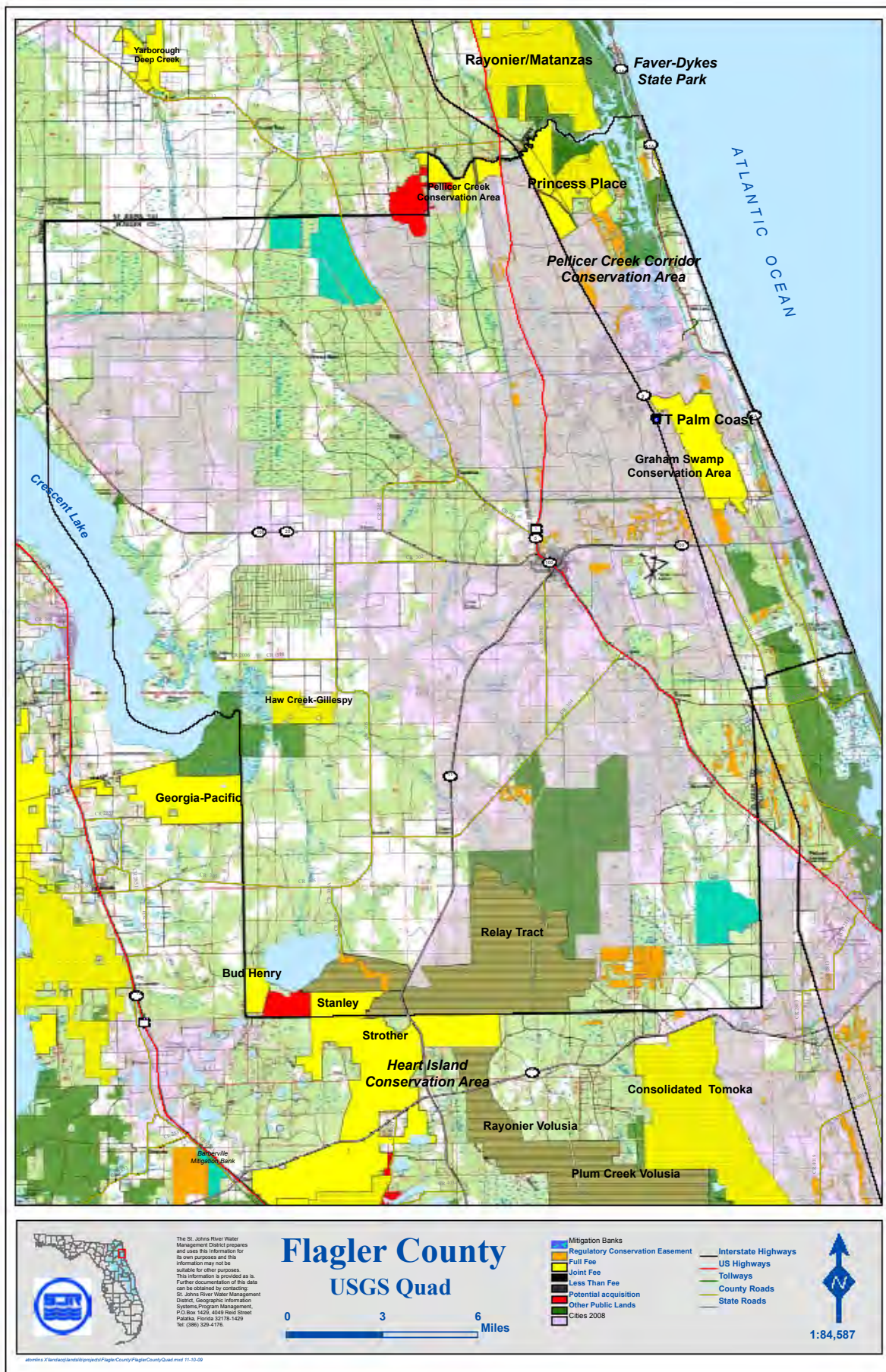
This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.
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APPENDIX SEVEN COMPREHENSIVE PLAN FACILITIES TABLES



Beach Access Parks

Flagler County Comprehensive Plan Facilities Tables

Existing Preservation and Recreation Facilities: Acquisitions Supported by ESL Program

Name of Facility/ Site	Management Entity	Acreage & Location	Classification of Site	General Description	Operations & Management Activities
Princess Place Preserve	Flagler County	1,366 acres (ESL, WMD & P-2000 Funds) 137 Acres South of Pellicer Creek	Resource-Based Park, Utilitarian, Environmentally Sensitive Open Space and Special Facility	Historic Lodge, out buildings and barn, Education Center (Legacy Program), Island House (temporary use by Florida Agricultural Museum), Island Guest House , group camp site, primitive camp sites, picnic tables, barbecue grills, boat launch, hiking trails, tow caretaker residential facilities, parking	Open to public Wednesday to Sunday from 9 AM to 5 PM Available for special reservations through parks department. Primitive camping available with permit. Two caretakers (one for main park and the other for Island House). Management Activities include mowing, landscaping, land clearing, repairing and maintenance on an as needed basis (daily, weekly and monthly). Prescribed burning is also conducted.
Bings Landing Park	Flagler County	7 Acres West of A1A to ICW opposite Malacompra Road	Resource-Based Park and Special Facility	Boat Launch, fishing, docks, large picnic pavilion, barbecue grills, gazebo, restrooms, air-conditioned building with restrooms, playground equipment, historical site, one caretaker residential facility, parking	Building and pavilion available for special reservations through parks department. Caretakers providing security, improvements and public assistant. Management activities include custodial mowing, land clearing, repairing and maintenance on an as need basis (daily weekly and monthly)
Flagship Harbor now Betty Steflik Memorial Preserve	Flagler County	Phase I – 218 Acres Phase II – 105 Acres South of SR 100 between ICW & South Flagler Ave	Resource-Based Park, Utilitarian Open Space and Special Facility	Education/Picnic Pavilion with restrooms, barbecue grills, hiking trail, boardwalk, parking	Available (pavilion) for special reservations through Parks Dept. Management activities include mowing, landscaping, land clearing, repairing and maintenance on an as need basis (daily, weekly, monthly) City of Flagler Beach provides Police & fire services

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Existing Preservation and Recreation Facilities: Acquisitions Supported by ESL Program

Name of Facility/ Site	Management Entity	Acreage & Location	Classification of Site	General Description	Operations & Management Activities
Haw Creek Preserve	Flagler County	1,015 Acres (ESL & WMD Funds) South of CR 2006 between Dead Lake and CR 305	Resource-Based Park, Utilitarian and Environmentally Sensitive Open Space, Local Supplemental Park with Community Center and Special Facility	Boat Launch (at Russell Landing) picnic pavilions, barbecue grills, horse arena, hiking trails, Pellicer Community Center (meeting facility with restrooms), playground equipment, parking, mile long boardwalk	Pellicer Community Center available for reservations. Management activities include mowing, land clearing, repairing custodial and maintenance on an as need basis (daily, weekly, monthly). Prescribed burning and timber management activities are also conducted.
Lake Disston Boat Launch	Flagler County	2 Acres South of CR 305 & East of Lake Disston	Resource-Based Park and Special Facility only	Boat Launch,	Management activities include custodial mowing, land clearing, repairing and maintenance on an as need basis (daily weekly and monthly)
Washington Oaks State Gardens Addition	State of Florida	11 Acres (County & State Funds) Northeast Sector between A1A and Atlantic ocean	Resource-Based Park, Utilitarian and Environmentally Sensitive Open Space	Addition to Washington Oaks State Gardens ocean front park facilities	Managed by Department of Environmental Protection.
River to Sea Preserve at Marineland	Flagler County	90 Acres (P-2000 Funds)	Resource-Based Park and Environmentally Sensitive Open Space	acquired property, management plan implementation in process, facilities include a building with restrooms, additional restrooms, utility buildings, parking and picnic areas, future trails	Management activities include land clearing, repairing and maintenance on an as need basis (daily, weekly and monthly).
TOTAL ACREAGE		2951 ACRES			

Existing Preservation and Recreation Facilities: Other County Facilities

Name of Facility/ Site	Management Entity	Acreage & Location	Classification of Site	General Description	Operations & Management Activities
Bay Drive County Park	Flagler County	3 Acres East of A1A on Bay Drive adjacent to the Beach	Resource-Based Park and Special Facility (oceanfront Beach Access only)	No improvements: Oceanfront	None at this time
Malacompra Road Park	Flagler County	117 Acres East of A1A both sides of Malacompra Road adjacent to the beach. Five acres added in 2005.	Resource-Based Park, Utilitarian Open Space, Comprehensive County Park with Community Center and Special Facility	Oceanfront Area: dune walk over, restrooms; outdoor shower, hiking trail, parking; Hammock Community Center: Air conditioned building with restrooms, picnic pavilion; barbecue grill, playground equipment, basketball court, volleyball court, ball field, hiking trails, parking	Management activities include custodial mowing, lawn maintenance, repairing and improvements on an as need basis (daily, weekly and monthly)
Malacompra Plantation Greenway	Flagler County	309 Acres on A1A from Sea Colony to Vam Park	Greenway	No Improvements	None at this time
Beach Access Easement, portion of former Old Salt Rd. Park	Privately Owned	1.65 Acres 16 th Road east of A1A	Resource-Based Park and Special Facility (oceanfront beach access only)	Parking Restrooms will be provided	County owned
Jungle Hut Road Park	Flagler County	2 Acres East of A1A on Jungle Hut Road adjacent to the beach	Resource-Based Park and Special Facility (oceanfront beach access only)	Restrooms, outdoor shower and dune walkovers, parking	Management activities include custodial mowing, lawn maintenance, repairing and improvements on an as need basis (daily, weekly and monthly).
Vam Park	Flagler County	6 Acres East of A1A south of Mariner's Drive adjacent to the Atlantic Ocean	Resource-Based Park and Special Facility (oceanfront beach access only)	Restrooms, outdoor shower, and dune walkovers, parking	Management activities include custodial mowing, lawn maintenance, repairing and improvements on as need basis (daily, weekly and monthly).
Moody Boat Launch	Flagler County	8 Acres South of SR 100 adjacent to Betty Steflik Preserve	Resource-Based Park and Special Facility	Boat launch, restrooms, picnic tables, barbecue grills, hiking trail, parking	Management activities include custodial mowing, lawn maintenance, repairs and improvements on an as need basis (daily, weekly and monthly). City of Flagler Beach provides police and fire services

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Existing Preservation and Recreation Facilities: Other County Facilities

Name of Facility/ Site	Management Entity	Acreage & Location	Classification of Site	General Description	Operations & Management Activities
Wadsworth Park	Flagler County	40 Acres North of SR 100 and west of ICW	Comprehensive County Park	Tennis courts, racquetball courts, basketball courts, volleyball court, horseshoe area, picnic pavilions, grills, play equipment, ball fields, soccer fields, boardwalk/nature trail, restrooms, parking	Pavilions available for reservations through parks department. Management activities include custodial mowing, field/lawn maintenance, repairing and improvements on an as need basis (daily, weekly, and monthly). City of Flagler Beach provides police and fire services.
Wadsworth Park Addition	Flagler County	14 Acres Land abuts easterly side of Wadsworth Park	Comprehensive County Park	No Improvements	None at this time.
Grand Haven North Park	City of Palm Coast	11.5 acres Northwest of ICW on North Colbert Lane	Resource-Based Park, Utilitarian Open Space and Special Facility	No Improvements	None at this time.
Palm Coast Community Center	City of Palm Coast	3 Acres North of Palm Coast Parkway East and east of Clubhouse Drive	Local Supplemental Park	Air-conditioned building with restrooms and offices; picnic tables, grills, basketball court, play equipment, parking	¾ rooms available for rental through Parks Department. Also houses PCSD Advisory Council Office (Secretary). Management activities include custodial, mowing, lawn maintenance, repairing and improvements on an as need basis (daily, weekly and monthly).

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Existing Preservation and Recreation Facilities: Other County Facilities

Name of Facility/ Site	Management Entity	Acreage & Location	Classification of Site	General Description	Operations & Management Activities
Palm Coast Community Park	City of Palm Coast	26.75 Acres North of Palm Coast Parkway. Between Florida Park Drive and Old Kings Road	Comprehensive County Park	Tennis courts, racquetball courts, basketball courts, volleyball court, shuffleboard courts, bocce ball courts, concrete bocce ball courts, horseshoe area, picnic pavilions, barbeque grills, large pavilion with restrooms, play equipment, ball fields, parking	Three pavilions available for reservations through the parks department. Management activities include custodial, mowing, lawn maintenance, repairing and improvements on an as need basis (daily, weekly and monthly).
Belle Terre Community Park	City of Palm Coast	11 Acres East of Belle Terre Parkway and south of Parkview Drive	Comprehensive County Park	Tennis courts, ball fields, track field, exercise equipment, play equipment, parking	Management activities include custodial, mowing, lawn maintenance, repairing and improvements on as need basis (daily, weekly and monthly)
Frieda Zamba Pool	City of Palm Coast	12 Acres East of Belle Terre Parkway and south of Parkview Drive	Special Facility	Pool with changing area and weight facilities, parking	Operated by Flagler County School Board/Adult Education
Flagler County Fair Grounds	Flagler County	25 Acres East of CR 13	Special Facility	Building with barbecue area (not air-conditioned); pavilion, arena with seating; restrooms, livestock buildings, large metal building, additional metal building, parking	Arena and pavilion available for reservations through the Parks Department. Management activities include custodial, mowing, lawn maintenance, new construction, repairing and improvements on an as need basis (daily, weekly and monthly).
Flagler County Recreation Area	Flagler County	25 Acres East of CR 13	Special Facility	Ball fields, restrooms, concession buildings, parking	Softball/baseball tournaments coordinated through the parks department. Management activities include custodial, mowing, lawn', field maintenance, repairing and improvements on an as need basis (daily, weekly and monthly).
Old Dixie Community Park	Flagler County	20 Acres South of Old Dixie Highway and west of I-95	Comprehensive County Park	No Improvements	None at this time.

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Existing Preservation and Recreation Facilities: Other County Facilities

Name of Facility/ Site	Management Entity	Acreage & Location	Classification of Site	General Description	Operations & Management Activities
Korona Playground	Flagler County	1 Acre Near Intersection of US1 and Old Dixie Highway	Neighborhood Park	Half Court basketball	Management activities include custodial mowing, own/field maintenance, repairing and improvements on an as need basis (daily, weekly and monthly).
Shell Bluff Launch	Flagler County	2 Acres On CR67, south of SR 100 and east of Crescent Lake	Resource –Based Park (Special facility only).	Boat Launch	Management activities include custodial , lawn maintenance on an as need basis (daily, weekly and monthly)
Hidden Trails Park	Flagler County	20 Acres West of CR 305 between Canal Avenue and Mahogany Avenue	Comprehensive County Park	Future improvements being planned for 10 acres: multipurpose field, sand volleyball court, basketball court, shuffleboard court, horseshoe pits, racquetball court, picnic areas, playground and an exercise/jogging trail	None at this time
Haw Creek Community Center	Flagler County	1 Acre on CR 304	Local Supplemental Park	Air-conditioned building with restrooms; picnic pavilion, grills, playground equipment, fenced basketball court	Available for special reservations through the parks department. Management activities include custodial, mowing, lawn maintenance, repairing and improvements on an as need basis (daily, weekly and monthly).
St. Johns Park Community Center	Flagler County	1 Acre East of CR 305 adjacent to CR 2006	Local Supplemental Park	Air-conditioned building with restrooms, half court basketball	Available for special reservations through the parks department. Management activities include custodial, mowing, lawn maintenance, repairing and improvements on an as need basis (daily, weekly and monthly).
Espanola Park	Flagler County	10 Acres South of CR 205 and west of CR 13	Neighborhood Park	Volleyball, basketball court, one ball field, play equipment, small pavilion with picnic tables and barbecue grills New restrooms planned	Management activities include custodial mowing, lawn maintenance, repairing and improvements on an as need basis (daily, weekly and monthly).

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Name of Facility/Site	Management Entity	Acreage and Location Classification of Site	Classification of Site	General Description	Operations and Management Activities
Lehigh Rail Trail	Flagler County	200 acres. From Colbert Lane to US1 north of SR 100.	Resource Based Park, Utilitarian and Special Facility	Hiking/ biking trail nine acres in length	Custodial mowing, repair and maintenance on an as needed basis (daily, weekly, and monthly).
Palm Coast Linear Park and Park Addition	City of Palm Coast	56 acres. Located between Palm Coast Parkway North and South East of Old Kings Road.	Resource Based Park, Utilitarian, Environmentally Sensitive Open Space and Special Facility	Hiking/ biking trail, playground and natural habitat	Custodial mowing, repair and maintenance on an as needed basis (daily, weekly, and monthly).
Shell Bluff	Flagler County	90 acres. Located off SR 100 on Crescent Lake.	Resource Based Park, Utilitarian, Environmentally Sensitive Open Space.	Boat launch, fishing and picnic facilities	Repair and maintenance on an as needed basis (daily, weekly, and monthly).
Mala Compra Oceanfront Addition	Flagler County	5 acres. Terminus of Mala Compra Road.	Resource Based Park, Environmentally Sensitive Open Space.	Beach access and picnic facilities.	Repair and maintenance on an as needed basis (daily, weekly, and monthly).
Mulberry Branch	City of Palm Coast	60 acres. Fulton and Furness	Environmentally Sensitive Open Space.	Environmental habitat and hiking trails.	Repair and maintenance on an as needed basis (daily, weekly, and monthly).
Bull Creek Fish Camp	Flagler County	28 acres. Located at western terminus of CR 2006 on Dead Lake.	Resource Based Park, Environmentally Sensitive Open Space.	R/V park facility.	Custodial, repair and maintenance on an as needed basis (daily, weekly, and monthly).
Public Lands "D"	Flagler County	1000+ acres. Located south of SR 100 and east of Old Kings Road.	Environmentally Sensitive Open Space and wildlife habitat.	Hiking trails and gopher tortoise relocation site.	Repair and maintenance on an as needed basis (daily, weekly, and monthly).
Longs Landing	City of Palm Coast	9 acres. Located north of Palm Harbor Parkway.	Environmentally Sensitive Open Space.	Wildlife habitat and archaeological site.	Repair and maintenance on an as needed basis (daily, weekly, and monthly).
Moody Homesite	Flagler County	3.5 acres. Briarwood Drive and SR 100.	Environmentally Sensitive Open Space.	Wildlife habitat and historic site.	Custodial mowing, repair and maintenance on an as needed basis (daily, weekly, and monthly).

Harbor Island	Flagler County	60 acres. South of Betty Steflik Park	Environmentally Sensitive Open Space.	Wildlife habitat.	Habitat management as needed.
Bay Drive Park Addition	Flagler County	13 acres. Eastern terminus of Bay Drive	Resource Based Park, Environmentally Sensitive Open Space.	Beach access and picnic facilities.	Repair and maintenance on an as needed basis (daily, weekly, and monthly).
Bings Landing Addition	Flagler County	2.5 acres. SR A1A.	Resource Based Park.	Intracoastal access and picnic facilities.	Custodial mowing, repair and maintenance on an as needed basis (daily, weekly, and monthly).
Bulow Park	Flagler County	97 acres. South of SR 100 east of Old Kings Road.	Resource Based Park, Environmentally Sensitive Open Space.	Addition to Public Lands D. Picnic facilities and access to Bulow Creek.	Custodial mowing, repair and maintenance on an as needed basis (daily, weekly, and monthly).

Existing Preservation and Recreation Facilities: Other County Facilities

Name of Facility/ Site	Management Entity	Acreage & Location	Classification of Site	General Description	Operations & Management Activities
Smoke Rise Playground	Flagler County	1 Acre Southeast corner of county boundary	Neighborhood Park	No Improvements	None at this time.
Graham Swamp/ Indian Mound	Flagler County	44 Acres West of Colbert Lane	Resource –Based Park, Utilitarian and Environmentally Sensitive Open Space	No Improvements	None at this time.
Carver Gym	Flagler County	3 Acres Southeast Bunnell, East of US 1	Special Facility	Gym with office and small classroom facilities, outdoor basketball court, play equipment, small pavilion with barbecue grill and picnic tables	Pavilion available for reservations through the parks department. Management activities include custodial, mowing lawn maintenance repairing, improvements and public assistance on an as need basis (daily, weekly and monthly).
Indian Trails Community Park (name is not official)	City of Palm Coast	28.7 Acres East of Belle Terre Parkway between Burroughs Drive and Bud Hollow Drive	Comprehensive County Park	Future Improvements being planned	None at this time.
Belle Terre Softball Complex (Name is not official)	City of Palm Coast	171.5 Acres West of Belle Terre Parkway south of Indian Trails K-8 School	Special Facility	Future use for Softball facility	None at this time.
Lehigh Woods Park (Name is not official)	City of Palm Coast	13 Acres East of Rhymfire Drive ½ mile north of Royal Palms Drive	Neighborhood Park	No Improvements	None at this time.
Cypress Knoll Park (name is not official)	City of Palm Coast	14.6 Acres East of Easthampton Boulevard and south of Eric Drive	Neighborhood Park	No Improvements	None at this time.

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Existing Preservation and Recreation Facilities: Other County Facilities

Name of Facility/ Site	Management Entity	Acreage & Location	Classification of Site	General Description	Operations & Management Activities
Belle Terre Soccer Complex (name is not official)	City of Palm Coast	34.85 Acres East of Belle Terre Parkway south of Royal Palm Parkway	Special Facility	Future use of soccer complex	None at this time.
Quail Hollow Park (name is not official)	City of Palm Coast	56 Acres East of Belle Terre Parkway south of Airport	Neighborhood Park	No Improvements.	None at this time.
Seminole Woods Park (name is not official)	City of Palm Coast	12.4 Acres East of Sesame Boulevard and south of Seward Trail West	Neighborhood Park	No Improvements.	None at this time.
TOTAL ACREAGE		602.3			

Existing Preservation and Recreation Facilities: City and State Parks

Name of Facility/ Site	Management Entity	Acreage & Location	Classification of Site	General Description	Operations & Management Activities
Bunnell City Park	City of Bunnell	3.6 Acres	Neighborhood Park	Large Picnic pavilion with restrooms, large grill, playground equipment, soccer field, baseball field, basketball court, volleyball court.	Managed by the City of Bunnell
Silver Lake Preserve	City of Flagler Beach	48 Acres	Resource-Based Park	No improvements at this time: Management plan provides for elevated boardwalk, canoe launch, picnic area	Managed by the City of Flagler Beach
Moody Wickline Park (Owned by County, 100 year lease to City)	City of Flagler Beach	1.8 Acres	Neighborhood Park; Special facility	Air-conditioned building with restrooms, gazebo, picnic shelter, basketball court, tennis courts, play equipment, volley ball court	Managed by the City of Flagler Beach
Veterans Park	City of Flagler Beach	1.1 Acres (200' by 250')	Open Space	Benches, water fountain	Managed by the City of Flagler Beach
Palm Drive Custer Park	City of Flagler Beach	28 Acres	Neighborhood Park	Play equipment, beaches	Managed by the City of Flagler Beach
Palmetto Avenue Park	City of Flagler Beach	.1 Acre (60' x 60')	Neighborhood Park	Play equipment	Managed by the City of Flagler Beach
Santa Maria Catholic Church Park (Owned by Church leased by City)	City of Flagler Beach	1.4 Acres	Neighborhood Park	Play equipment and ball field	Managed by the City of Flagler Beach
TOTAL ACREAGE		84			

Name of Facility/ Site	Management Entity	Acreage & Location	Classification of Site	General Description	Operations & Management Activities
Washington Oaks State Gardens	State of Florida	400 Acres (including 11 acre addition) Northeast Sector between A1A and ICW	Resource-Based Park, Utilitarian and Environmentally Sensitive Open Space	Visitor center, restrooms, picnicking, trails, gardens, dune walkover, parking	Management by Department of Environmental Protection.
Gamble Rogers Memorial Park	State of Florida	145 Acres Southeast Sector between A1A and ICW	Resource –Based Park, Utilitarian Open Space	Oceanfront camping, dune walkovers, boat launch, picnic pavilions, restrooms, parking	Managed by Department of Environmental Protection.
Bulow Ruins State Park	State of Florida	152 Acres Southeast Sector between Bulow Creek and Old Kings Road	Resource-Based Park, Utilitarian Open Space	Historical ruins, boat ramp, canoe rental, interpretative center, picnic pavilion, play equipment, nature trails and primitive campsite	Managed by Department of Environmental Protection
Haw Creek State Preserve	State of Florida	Approximately 1,000 Acres Southwest sector between Dead lake and CR 305	Resource-Based Park, Utilitarian and Environmentally Sensitive Open Space	No Improvements	Managed by Department of Environmental Protection
Relay Wildlife Management Area*	Private (The State of Florida manages the wildlife and the Fish and Wildlife Conservation Commission manages the land).	25,463 Acres South-central County, south of CR 304 between US 1 and SR 11	Utilitarian and Environmentally Sensitive Open Space	Primitive Campsites (during hunting season)	The State of Florida manages the wildlife and the Fish and Wildlife Conservation Commission manages the land.
Bulow Creek State Park	State of Florida	500 Acres in Flagler County 2,645 total acres (both counties) Southeast County between 1-95 and A1A	Utilitarian and Environmentally Sensitive Open Space	4 miles hiking trails	Managed by Department of Environmental Protection.
Graham Swamp	St. Johns River Water Management District / Flagler County	3,790 Acres North of SR 100 between Old Kings Road and Colbert Lane	Environmentally Sensitive Open Space	Approximately 2 miles of hiking trails, outside environmentally sensitive areas	Managed by the St. Johns River Water Management District.
Pellicer Creek Canoe Trail	State of Florida	4miles north of county line, from US 1 to Matanzas River	Corridor/ Greenway, Environmentally Sensitive Open Space (aquatic preserve)	Aquatic Preserve	Managed by Department of Environmental Protection.
TOTAL ACREAGE		5410			

APPENDIX EIGHT

ESL GUIDANCE

DOCUMENT EXCERPTS

The following is a list of applicable Comprehensive Plan Policies that provide guidance for the development of program objectives:

Comprehensive Plan - Coastal Management Element

Policy 1.1.07: The priorities for environmental land acquisitions shall be ranked as follows:

1. Marine wetlands,
2. Coastal barrier property containing numerous vegetative communities and shoreline,
3. Shoreline locations with limited habitat diversity,
4. Coastal hammocks,
5. Any other native vegetative community.

Policy 11.3: Flagler County's environmentally sensitive lands shall include creek, stream or river banks, major drainage ways, beaches, shorelines, viable wetlands, floodplains, poor soil areas not suitable for development, wellhead protection areas, prime groundwater recharge areas, and natural systems that contribute to greenway corridors. The prime groundwater recharge areas are to be determined by the SJRWMD per Chapter 373.0395 (3) Florida Statutes.

Policy 4.7: Species of flora and fauna listed in the Conservation Element of the plan as endangered, threatened or species of special concern shall be protected through inclusion of their habitats in designated "Conservation Areas" and lands acquired through the County environmentally sensitive lands acquisition program.

Comprehensive Plan - Recreation and Open Space Element

Objective 2: Lands purchased through the Environmentally Sensitive Lands Program will protect, preserve or restore ecologically significant areas for environmental protection and resource-based recreation.

Policy 2-1: The County shall leverage the purchase of parks, open space and water access through the Environmentally Sensitive Lands Program by seeking grants which may be available for such purposes.

Policy 2-2: The County may consider a referendum to extend or expand the voter-approved millage for the Environmentally Sensitive Lands Program.

Policy 2-3: The County shall continue to explore enhancement opportunities for its Coastal Greenway and Flagler County Blueway in conjunction with State agencies.

Policy 2-4: Conservation corridors should be coordinated with Volusia, St. Johns and Putnam Counties.

Policy 2-5: The County shall provide educational opportunities related to leisure, health/safety, history and the environment including, inter alia, creating bird sanctuaries along the Intracoastal Waterway and spoil islands, provide nature trails to encourage flora and fauna identification and education on wildlife protection.

Policy 2-6: The County shall determine if lands purchased through the Environmentally Sensitive Lands Program are appropriate for the installation of stormwater facilities that will improve the quality of surface waters or alleviate current flooding problems occurring on land in close proximity. Such stormwater facilities shall be designed to provide wildlife habitat and/or open space in a park-like setting.



Linear Park

Policy 2-7: Land acquisitions should include nature, bike and/or equestrian trails that integrate into the Bicycle/Pedestrian Way Master Plan of the Transportation Element.

Policy 2-8: The development of resource-based parks shall include native vegetation.

Policy 2-9: The County, when participating in a public land acquisition of countywide significance, will serve as the managing entity either individually or in conjunction with other public agencies or non-profit organizations.

Policy 2-10: Acquisition of the Moody Homestead will ensure protection of specimen trees and as critical historic resource.

Objective 7: The County shall secure additional access points to open water shorelines.

Policy 7.1: Shoreline access will be provided through development of existing rights-of-way and easements, developer contributions and public land acquisitions.

Policy 7-2: The County shall improve existing, and/or construct new, fresh and salt water fishing piers.

Policy 7-3: The County shall supply ample beach access and public parking, maintain existing public access points and dune walkovers and provide public parks at waterfront locations such as Lake Disston, Crescent Lake, Dead Lake, and the Intracoastal Waterway.

Policy 7-4: The County shall provide canoe and kayak trails with access and landing areas in several locations including Bulow Creek, Bull Creek, Dead Lake, Crescent Lake, and the Matanzas River.

Policy 7-5: The County shall utilize park impact fees and the environmentally sensitive lands program to create, expand, or enhance Greenways, Ecological Corridors, or Recreational Trail Systems.

The following is a list of applicable program objectives from the former 1999 ESL Manual:

- Preserve wildlife habitats and protect the health and diversity of wildlife, especially threatened and endangered species of plants and animals;
- Promote improved water quality and preserve the Floridan aquifer and water recharge areas;
- Preserve environmentally sensitive lands, especially rare natural communities or wildlife habitats;
- Preserve cultural, historic, scenic and significant geologic features;
- Promote sustainable patterns of development that direct urban and suburban development away from environmentally sensitive or high hazard areas;
- Establish natural and recreational corridors throughout the county promoting wildlife migration, alternative transportation modes and fitness/exercise opportunities;
- Preserve green space in close proximity to development to provide refuge for residents, visitors and wildlife;
- Promote economic development through nature tourism; and
- Promote public use and enjoyment of and control access to acquired lands including public access to water bodies for recreation activities.

The following is a list of applicable ESL guidance from the 2008 ESL Ballot Measure and applicable referendum resolution text:

Subject to electoral approval by the citizens of Flagler County, the levy shall be on all taxable property at a fixed rate of 0.25 mills for twenty years to continue to acquire and improve land to protect drinking water sources, preserve wildlife habitat and environmentally sensitive lands, reduce the risk of wildfires, and to improve water quality of lakes, streams and the Intracoastal Waterway.

Applicable Resolution 2008-53 passages:

"...to fund the acquisition of water resources and environmentally sensitive land for conservation and public use."

"...continue to acquire and improve land to protect drinking water sources, preserve wildlife habitat and environmentally sensitive lands, reduce the risk of wildfires, and to improve water quality of lakes, streams and the Intracoastal Waterway."

"It is in the public interest that there is adequate funding made available for appropriate public access and proper stewardship through land management of all properties acquired under the program. To facilitate these goals, there shall be set aside an amount of up to ten percent (10%) of the purchase price for each new property acquisition for improvements to the acquired property. The improvements may include public access improvements, passive recreational site improvements, natural community restoration and habitat enhancement."

The following is a list of applicable ESL guidance from the Board of County Commissioners recently adopted 2009 Strategic Plan:

B. Effective Land Planning and Growth Management – Comprehensive Plan and Land Development Regulations

Goal B.1 Future development that is "smart-growth" oriented, low impact and "environmentally friendly".

Objective B.1.3: Place greater emphasis in the Environmentally Sensitive Lands Program on acquisition of lands that support smart growth objectives, consistent with the environmental purposes of the program.

C. Protecting the Environment, Preserving Our Natural Resources

Goal C.1 Intact functioning natural systems that contribute to the highest possible quality of life for Flagler residents.

Objective C.1.1: Continue the Environmentally Sensitive Lands Program and create a master County conservation plan that draws together in a single document the relevant components of the comprehensive plan, land development regulations, and Environmentally Sensitive Lands Program, including maps of existing public lands and lands targeted for acquisition. (The master conservation plan is intended as a tool to enhance integration and understanding of County environmental plans and policies, and facilitate access to information about them. It is not intended to be independent of the provisions of the comprehensive plan, land development regulations, or Environmentally Sensitive Lands Program.

The following is a general policy statement from the Board of County Commissioners:

The Development of Regional Impact (DRI) process provides a useful tool for inclusion of wildlife and habitat conservation objectives as the development of an area proceeds. In addition to addressing particular concerns regarding listed species, careful use of the DRI process can foster important wildlife conservation objectives such as maintaining or enhancing habitat connections, variety, shape and size.



APPENDIX NINE

REVIEW APPRAISER GUIDELINES

The certification shall be similar in content to the following:

I certify that, to the best of my knowledge and belief:

- The facts and data reported by the review appraiser and used in the review process are true and correct.
- The analysis, opinions, and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal unbiased professional analyses, opinions, and conclusions.
- I have no (or the specific) present or prospective interest in the property that is the subject of this report and I have no personal interest or bias with respect to the parties involved.
- My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this review report.
- My analysis, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
- I did (did not) personally inspect the subject property of the report under review.
- No one provided significant professional assistance to the person signing this review report. (If there are exceptions, the names of each individual providing significant professional assistance must be stated).
- The appraisal(s) reviewed are in substantial compliance with the contract terms and USPAP.

The review appraiser shall perform a review of each appraisal report for compliance with contract terms, appropriateness of appraisal technique, accurateness of calculations, adequacy of data, and communication of the appraiser's rationale and analysis in arriving at a supported opinion of value. The review appraiser may request additional data, corrections or reconsideration from the appraiser during field review. A field review shall include investigation of the market to determine if the appraiser has omitted any pertinent data from consideration.

The review appraiser shall personally inspect the property appraised and the pertinent comparable sales or other properties on which the appraiser placed major reliance in arriving at a value estimate. If an inspection did not take place, the appraiser shall provide an explanation acceptable to County staff. The review appraiser may also verify market data, confirm market opinions or assumptions by interviews, and gather other information pertinent to the appraisal. It is the review appraiser's duty to communicate with the appraiser(s) in an attempt to correct deficiencies, inaccuracies or to reconcile differences in appraisal techniques or premise between appraisal reports. The review appraiser shall in no way attempt to direct the value estimate in favor of any party. Although the review appraiser may verbally discuss review questions with the appraiser, all questions, comments, or requests for clarification shall be communicated to the appraiser in writing with a copy to Flagler County. The appraiser shall, upon request, provide a written response to all review questions, comments, or requests for consideration of factors bearing on value with a copy to Flagler County.



Hominy Branch Trail at Princess Place Preserve

APPENDIX TEN

ACQUISITION

AGREEMENTS



Princess Place Preserve

INTERLOCAL AGREEMENT

THIS AGREEMENT, made and entered into this 11th day of January 2009, by and between the COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County", having a mailing address of 1769 East Moody Boulevard, Suite 302, Bunnell, Florida 32110 and the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, a public body existing under Chapter 373, Florida Statutes, hereinafter referred to as "District" and having a mailing address of Post Office Box 1429, Palatka, Florida 32178-1429.

WITNESSETH:

WHEREAS, the County has adopted a program for the purpose of preserving natural resources, wildlife and wilderness resources, and providing for environmental education and public recreational activities through acquisition of environmentally sensitive lands; and

WHEREAS, the District has the authority under Chapter 373, Florida Statutes to acquire the fee or other interest in lands necessary for water management, water supply, and the conservation and protection of water resources; and

WHEREAS, the County and the District, in recognition of the mutual preservation efforts and the responsibilities of the other, each desire to enter into this Agreement to establish a program for the joint acquisition and management of individual parcels of land lying within the geographical boundaries of Flagler County (the "Parcel" or "Parcels") that satisfy the missions of both agencies.

NOW, THEREFORE, the County and the District, for mutual consideration and covenants, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, do hereby agree as follows:

1. PURPOSE, PARCEL IDENTIFICATION, AND NEGOTIATION STRATEGY: The purpose of this Agreement is to provide for the joint funding, acquisition and management of the Parcels located and situated in Flagler County, Florida and to proceed with the acquisition of any Parcels that may be appropriate and available for purchase. The County and the District shall jointly continue the investigation of the Parcels and related resource evaluation and agree upon Parcels to be subject to acquisition under this Agreement. Once a Parcel has been approved for acquisition by both parties, with each following

their normal approval processes, the District and County shall agree upon an acquisition and negotiation strategy ("Acquisition Strategy") to determine the appropriate party to take the lead in each phase of the acquisition process for that Parcel (the "Lead Agency"). The other party shall be the "Participating Agency" for each phase. The Acquisition Strategy shall also include a description of the manner in which the parcel will be funded, how title will be held by each party, and the general management plan for the parcel.

The District and County may utilize other parties in the Acquisition Strategy and may assign roles accordingly. The District and County also may jointly plan and pursue outside funding requests to increase resources for acquisition or management of Parcels.

The District and County acknowledge that the District did not receive Florida Forever monies for fiscal year 2009-2010, the primary source of funding for its acquisition program. Therefore, the District's opportunities to contribute funding for an acquisition may be limited until such time as the Florida Forever program is re-established.

2. **APPRAISALS:** The Lead Agency shall secure the appraisals of the appropriate interest in the Parcel in accordance with mutually acceptable appraisal standards and appraiser selection process. Prior to the presentation to the Seller of any offers to purchase, and subject to applicable laws governing appraisals for acquisition of lands, the Lead Agency shall provide the Participating Agency with the appraisal for review and approval. If either party finds the appraisals unacceptable, the parties will determine the necessary action to resolve the objection (the "Objection"). Title, Environmental and Survey Objections shall all be handled in the same manner as Appraisal Objections as set forth in Paragraph 4 (e) below.

3. **LAND ACQUISITION AND HOLDING OF TITLE:** The Lead Agency will proceed with the acquisition of the Parcel in accordance with the Acquisition Strategy, approved by both District and County. Following approval of appraisals, the Lead Agency will proceed with negotiating an Agreement of Purchase and Sale of the Property or an Option Agreement (hereinafter collectively "Purchase Agreement"). At closing, the District and County will purchase from the Seller of the Parcel, the appropriate interest in the Parcel acquired under this Agreement pursuant to a Closing Statement for each Parcel. The distribution of the purchase price, acquisition related costs and proportionate share of interest held by the parties in the Parcel shall be in accordance with the Acquisition Strategy described in Paragraph 1 above.

4. **TITLE INSURANCE, ENVIRONMENTAL ASSESSMENT AND SURVEY:** Following execution of a Purchase Agreement and prior to the closing of the Parcel, the designated Lead Agency will obtain a title commitment for an owner's title insurance policy, an environmental assessment (hereinafter

"Assessment"), and signed and sealed boundary surveys in accordance with District and County approved standards and procedures. In the event the Purchase Agreement for the Parcel calls for the title commitment/policy, Assessment or survey to be prepared by the Seller, said Purchase Agreement shall require such to be prepared in accordance with District and County approved standards. The same review and Objection process by District and County will proceed in the same manner as if the title commitment/policy, environmental assessment or survey were obtained by the Lead Agency..

(a) A copy of the title commitment for each Parcel will be provided to each party for review. The District and the County shall review the title commitment and any endorsement(s) thereto and notify each other of any unacceptable encumbrances and determine necessary action to resolve the Objection.

(b) An Assessment for each Parcel will be obtained by the designated Lead Agency and will be prepared by a contractor acceptable to both parties. A copy of the Assessment report will be supplied to both parties. The District and County shall review the Assessment and subsequent investigation(s) and notify each other of any unacceptable findings and/or conditions that will require additional research and/or remediation, and determine necessary action to resolve the Objection.

(c) The designated Lead Agency shall obtain a boundary survey and legal description of the Parcel prepared by a licensed Florida Surveyor, prepared in accordance with procedures approved by both parties, showing the legal boundaries of the Property. The District and County shall review the survey and legal descriptions and notify the other party of any unacceptable encroachments and/or survey defects, and determine necessary action to resolve the objection. The requirement to obtain a survey may be waived upon mutual agreement by both parties.

(d) At any time, the Lead Agency may request the Participating Agency to undertake the obtaining of appraisals, title information, environmental assessment, or survey, and at the sole discretion of the Participating Agency, the Participating Agency may undertake such assignment.

(e) If any appraisal, title, environmental, or survey Objection cannot be resolved by the County, District, or Seller to the reasonable satisfaction of both the District and County prior to closing, either shall have the option not to participate in the acquisition of the Parcel by providing notice of non-participation to the other party, and the non-participating party shall thereafter be relieved of any further responsibility under this Agreement for that particular Parcel.

(f) Payment by the District and County of their respective shares of the purchase price at closing shall be conclusive evidence of acceptance of all closing related matters by both parties.

5. FUNDING: The Lead Agency shall notify the Participating Agency of the closing date for the purchase of each Parcel. Subject to completion of the requirements set forth above and approval by both parties of the closing documents and closing statement, the Lead Agency and the Participating Agency shall pay to the Closing Agent their respective purchase prices for the appropriate interests in the Parcel as set forth in the Acquisition Strategy. All pre-acquisition costs for appraisal, and closing costs attributable to the Buyer under the Purchase Agreement for each parcel, shall be shared by the District and County proportionate to their respective level of participation in the purchase price, unless otherwise agreed.

6. CONTINGENCY FOR COUNTY/DISTRICT APPROVAL: This Agreement and the Purchase Agreement(s) to be entered into by the parties shall be subject to the approval of the Governing Board of the District and the Board of County Commissioners of Flagler County through their own approval process as determined by each. If such approval does not occur, then neither party is obligated to purchase the Parcel and the parties are relieved from all further obligations under this Agreement. This approval contingency and funding participation contingency by both parties shall be set forth in the Purchase Agreement for each Parcel acquisition.

7. USE AND MANAGEMENT OF THE PROPERTY: The proposed Lead Managing Agency and future allowable uses for each Parcel shall be designated as part of the Acquisition Strategy. Allowable recreational activities shall be limited to passive public recreation such as wildlife viewing, hiking, horseback riding, bicycling, primitive camping, fishing, canoeing, boating and hunting. Recreational activities beyond those previously listed will be addressed in the Acquisition Strategy by mutual agreement of both parties. Acceptable management activities on the Parcel shall include fire management (including establishment of firelines), invasive plant management, forest management, and mechanical restoration activities such as mowing and chopping. Within one year of closing, a management plan shall be prepared for the Parcel by the Lead Managing Agency.

8. TECHNICAL ASSISTANCE: As a demonstration of mutual support and in recognition of mutual conservation goals, the District hereby agrees to assist the County with mapping and land analysis needs related to resource identification and potential land acquisitions. The County may hereby make request to the District's Division Director of the Land Acquisition Division or the

13. GOVERNING LAW: This Agreement shall be construed and interpreted according to the laws of the State of Florida.

14. EFFECTIVE DATE: For all purposes of this Agreement, the Effective Date hereof shall mean the date when the last of the County or the District has executed the same, and that date shall be inserted at the top of the first page hereof.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement to become effective as of the date and year first above written.

FLAGLER COUNTY, FLORIDA

By: Melissa Holland
Melissa Holland, Chair

Date: 9-23-09

ATTEST:

Gail Wadsworth, D.C.
Gail Wadsworth, Clerk and
Ex Officio Clerk to the Board

APPROVED AS TO FORM:

Albert J. Hadesd
Albert J. Hadesd, County Attorney

ATTEST:

W.H. Congdon
William H. Congdon, Esq.
Deputy General Counsel

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

By: Kirby B. Green III
KIRBY B. GREEN III
EXECUTIVE DIRECTOR

Date: November 11, 2009

Approved: St. Johns River Water
Management District:

William R. Abrams
William R. Abrams, Office of General Counsel

ACQUISITION AGREEMENT

FLAGLER COUNTY BLUEWAY FLORIDA FOREVER PROJECT FLAGLER COUNTY

THIS AGREEMENT is entered into under the provisions of Rule 18-1.014, Fla. Admin. Code, by and between FLAGLER COUNTY, a political subdivision of the State of Florida, the Division of State Lands ("DSL") of the Florida Department of Environmental Protection ("DEP") as agent for the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida ("Trustees"), as follows:

1. **Parcels.** DSL shall negotiate the acquisition of the parcels described on Exhibit "A" (the "Parcels") in accordance with the provisions of this Agreement. The Parcels are located within the Flagler County Blueway Project (the "Project"). The terms "Parcel" or "Parcels" as used herein shall mean and refer to those parcels described on Exhibit "A", as amended from time to time.

2. **Project funding.** The Project is ranked on the Florida Forever A list and is eligible for negotiation under the DSL land acquisition workplan as a ranked project.

3. **Pre-acquisition requirements.**

- a. **Appraisal mapping.** DSL shall be responsible for providing, at its cost, an appraisal map suitable for use in preparing appraisals in compliance with the procedures and requirements set forth in section 259.041, Fla. Stat., and Rule 18-1.006, Fla. Admin. Code.
- b. **Appraisals.** DSL will acquire at its cost such number of appraisals (including timber cruises as appropriate) as are required under the provisions of section 259.041, Fla. Stat., and Rule 18-1.006, Fla. Admin. Code. All appraisals shall be prepared according to the requirements of section 259.041, Fla. Stat., Rule 18-1.006, Fla. Admin. Code, and the Bureau of Appraisal's Supplemental Appraisal Standards. The appraisers shall be directed to provide copies of the appraisals to Flagler County when copies are delivered to DSL. DSL, or its contract review appraiser, will review appraisals obtained pursuant to this Agreement in accordance with all DSL standards and requirements. No Parcel is eligible for negotiation provided for herein until the appraisal reports are approved by DSL.

- c. **Confidentiality:** Pursuant to Sections 259.041(7)(e) and 259.041(8)(c), F.S. and Chapter 18-1, F.A.C., County, for itself, its agents and its employees, warrants that it will maintain the confidentiality of all appraisals, offers and counteroffers and other negotiation matters until an option agreement is executed, or if no option is executed, two weeks before a contract or agreement for purchase is considered for approval by the County or Trustees. County may disclose such confidential information only to the individuals who sign the confidentiality agreement, made part of this Agreement as Exhibit "B". Requests to add persons to the disclosure list must be made in writing and County must receive the written consent of DSL. All confidentiality requirements outlined above shall apply to individuals added to the list.

County understands and agrees that all documents, papers, letters, maps and other materials (collectively "records") specifically relating to the acquisition of a Parcel will become public record when an option agreement is executed, or if no option is executed, two weeks before a contract or agreement for purchase is considered for approval by the Trustees and at that time all records of the County relating to the acquisition shall become public record and shall be subject to public access in the same manner as are other public records pursuant to the provisions of Chapter 119, F.S. In addition to other remedies under law, this Agreement may be terminated by DSL if County fails to allow public access to any such records pursuant to Chapter 119, F.S.

However, notwithstanding the confidentiality requirement of section 259.041(7)(e), F.S., DSL or County may release an appraisal report when DSL has determined that the passage of time has rendered the conclusions of value in an appraisal report invalid. Prior to releasing an appraisal report, DSL shall provide written notice to County that DSL will release an appraisal report and DSL shall obtain the consent of County, which shall not be unreasonably withheld, prior to the release of any appraisal report.

4. Negotiations. The parties agree that DSL will take the lead in negotiating for the acquisition of the Parcels using a negotiation strategy created by DSL. All contracts or option agreements to acquire the Parcels will be on DSL forms and approved by DSL. The contract or option agreement will name the Trustees as purchaser, and Flagler County agrees to join in the execution of all contracts and option agreements evidencing its agreement to pay a share of the purchase price and closing costs. In the event Flagler County locates a Parcel of interest, Flagler County agrees to notify DSL staff of potential purchase.

5. **Participation.** The Trustee's share of the purchase price is 50% and Flagler County's share of the purchase price is 50%.

6. **Interest to be acquired.** Title to all Parcels acquired under the provisions of this Agreement shall be held solely by the Trustees.

7. **Closing costs.** Flagler County and DSL agree that DSL will obtain the environmental site assessment, survey, and title services (including title searches and examinations, title insurance commitment and policies, and the title agent's closing services) for the closing of any Parcel covered under this Agreement. The survey shall be certified to both the Board of Trustees and Flagler County as well as the title agent and title insurance underwriter. Copies of the survey, environmental site assessment and title services work shall be provided to Flagler County for review. The Trustee's share of the costs for the environmental site assessment, survey, and title services (collectively, "closing costs") will be 50% and Flagler County's share of the closing costs is 50%.

8. Contacts. Whenever either party desires or is required to give notice to the other, notice must be given in writing and either delivered personally, transmitted via facsimile transmission, mailed postage prepaid, or sent by overnight courier to the following address or to such other address as is designated by the party:

As to DSL:
Jason Garner
Bureau of Land Acquisition
Department of Environmental Protection
3900 Commonwealth Blvd., MS 115
Tallahassee, FL 32399
(850) 245-2669
(850) 245-2718 -fax
E-mail: Jason.garner@dep.state.fl.us

As to Flagler County:
Tim Telfer
Flagler County
Environmental Planner III
1200 E. Moody Blvd. #2
Bunnell, Florida 32110
(386) 437-7484 ext. 244
(386) 437-7488 -fax
E-mail: ttelfer@fcbcc.org

9. Applicable Laws. All conveyances to the Trustees will be subject to all applicable laws, rules and policies in effect at the time, and to the approval of the Trustees. Any duty of the Trustees to perform under the provisions of this Agreement is contingent on an annual appropriation therefor by the Florida Legislature.

10. Termination. This Agreement may be terminated by either party giving 30-days' prior written notice to the other party.

11. Special Conditions. DSL and Flagler County understand and agree that due to the current status of the availability of funds, neither DSL nor Flagler County is able to commit to when funds may be available to purchase the Parcels. DSL and Flagler County understand and agree that neither party shall have recourse whatsoever for the other's failure to acquire the Parcels due to the status of the ranking of the Parcels or the availability of funds. DSL will inform Flagler County of negotiations and offers. DSL agrees to allow Flagler County the option to withdraw its commitment under the provisions of this agreement before an option agreement with the seller is executed.

DONE AND AGREED the day and year indicated below.

FLAGLER COUNTY, a political
subdivision of the State of Florida

Attest: [Signature]

BY: 2.20.07 [Signature]
James Darby, Chairman

Date: _____

[Signature]
Witness

[Signature]
Witness

Approved as to Form and Legality:

By: [Signature]

Date: 2/9/07

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE
STATE OF FLORIDA

BY DIVISION OF STATE LANDS OF THE
FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Gwyn W. Short
Witness

[Signature]
Witness

BY: Deborah Pappell

NAME: Deborah Pappell
TITLE: Acting Director

DATE: 4/24/07

Approved as to Form and Legality

BY: William C. Robinson

DATE: 4-20-07

~~COMMISSIONER STEPLIK ASKED IF THIS ADMINISTRATOR WOULD BE WORKING FOR THE PALM COAST~~

SERVICE DISTRICT ONLY? MR. BRATTLOF STATED IT HAD COME UP IN THE DISCUSSIONS THAT THIS PERSON MIGHT WORK ONLY 3 DAYS A WEEK FOR THE PCSD AND WORK THE OTHER 2 DAYS FOR THE COUNTY IN OTHER AREAS. STATED THE ADVISORY BOARDS MAIN CONCERN WAS PALM COAST SERVICE DISTRICT.

COMMISSIONER DURRANCE STATED HE CAN SEE PROBLEMS WITH THE HIRING OF AN ADMINISTRATOR FOR THE PCSD WHO WOULD ALSO WORK PART TIME FOR THE COUNTY. ASKED WHO WOULD THIS PERSON ANSWER TO, MR. BAILEY WHO IS THE COUNTY ADMINISTRATOR, AND WOULD THIS NOT MAKE THE COUNTY HAVE AN ASSISTANT COUNTY ADMINISTRATOR WITH A SALARY OF \$50,000. MR. BRATTLOF STATED THE \$50,000 IS NOT FOR ONE PERSON, BUT WOULD ALSO PAY FOR A SECRETARY AND THE SETTING UP OF AN OFFICE.

NO ACTION WAS TAKEN AT THIS TIME.

PALM COAST COMMUNITY CENTER

HERBERT BRATTLOF, PALM COAST SERVICE DISTRICT ADVISORY COUNCIL, STATED THE COUNCIL HELD A SPECIAL MEETING WITH REGARDS TO THE PALM COAST COMMUNITY CENTER. STATED THE DISCUSSION WAS WHETHER THE COMMUNITY CENTER SHOULD BE UNDER THE JURISDICTION OF THE COUNTY, AND ALSO THE FUTURE STAFFING AND RESPONSIBILITIES OF THE COMMUNITY CENTER'S BOARD OF DIRECTORS. STATED THERE WAS SOME DISCUSSION ABOUT THE HIRING OF A DIRECTOR FOR THE COMMUNITY CENTER. STATED THIS IS FOR INFORMATION ONLY TO THE BOARD OF COUNTY COMMISSIONERS.

LAND ACQUISITION COMMITTEE

DAVE BAILEY, COUNTY ADMINISTRATOR, INFORMED THE BOARD OF THE RESULTS OF THE APPOINTMENT OF A LAND ACQUISITION COMMITTEE, TWO OF THE APPOINTEES BEING DENNIS BAYER AND NOAH MCKINNON, WHO ARE PRESENT AND WANT TO RECOMMEND A RESOLUTION BE PLACED ON THE REFERENDUM IN NOVEMBER.

DENNIS BAYER EXPLAINED THE LAND ACQUISITION COMMITTEE MET AND THEY DRAFTED A RESOLUTION TO BE PUT ON THE BALLOT IN NOVEMBER AND ALSO GIVE ADEQUATE PUBLIC NOTICE. STATED AREAS WHICH THIS COMMITTEE FELT SHOULD BE INCLUDED IN THE ACQUISITION PROGRAM WAS THE NATURAL AREAS OF THE PRINCESS ESTATE LOCATED IN THE NORTH EASTERN PORTION OF THE COUNTY, AND ACCESS POINTS TO OUR BEACHES AND RIVER SYSTEM AND FRESH WATER LAKES. STATED USING THE EXISTING TAX BASE A PROJECTION OF THE MILLAGE RATE WAS ARRIVED AT, AND THE RESULT BEING 1/3 OF A MILL TO BE PUT ON THE BALLOT IN NOVEMBER WHICH WILL RAISE REVENUES TO \$391,000.

STATED IT IS THE RECOMMENDATION OF THE LAND ACQUISITION COMMITTEE THAT THE PROPOSED RESOLUTION BE ADOPTED AT A RATE OF 1/3 OF A MILL TO BE PUT ON THE BALLOT IN NOVEMBER

FOR THE VOTERS TO DECIDE WHETHER OR NOT THEY SUPPORT THIS TYPE OF PROGRAM.

COMMISSIONER STEFLIK AND COMMISSIONER HENRY STATED THEY WOULD LIKE TO SEE THE BALLOT READ THAT THIS 1/3 MILLAGE BE ADOPTED FOR A MINIMUM OF 20 YEARS IN ORDER FOR THE PUBLIC TO REALIZE THIS IS TO BE PAID OVER A MINIMUM OF 20 YEARS.

A MOTION WAS MADE BY COMMISSIONER HENRY TO ADOPT THIS RESOLUTION TO PUT ON THE BALLOT A PROPOSED MILLAGE RAISE OF 1/3 MILL FOR LAND ACQUISITION WITH THE ADDITION OF A 20 YEAR LENGTH OF THE LEVY, SECONDED BY COMMISSIONER STEFLIK, NO NAY VOTES, MOTION CARRIED.

RESOLUTION NO. 88-46

A RESOLUTION OF THE COUNTY COMMISSIONERS OF THE COUNTY OF FLAGLER, FLORIDA, AUTHORIZING THE LEVY OF AN AD VALOREM TAX ON ALL TAXABLE PROPERTY AT A RATE NOT EXCEEDING ONE-THIRD OF ONE MIL. (.33MIL) FOR NOT IN EXCESS OF TWENTY (20) YEARS AND THE ISSUANCE OF NOT EXCEEDING SEVEN MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$7,800,000.00) PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS BEARING INTEREST AT THE MAXIMUM LEGAL RATE AT TIME OF SALE AND PAYABLE FROM SUCH AD VALOREM TAXES FOR FINANCING THE ACQUISITION OF ENVIRONMENTALLY SENSITIVE LANDS, INCLUDING BUT NOT LIMITED TO WATER RECHARGE AREAS, AND LANDS FOR PARKS AND RECREATION; PROVIDING FOR AND CALLING A REFERENDUM OF THE QUALIFIED ELECTORS RESIDING IN THE COUNTY TO BE HELD NOVEMBER 8, 1988, ON THE QUESTION OF THE ISSUANCE OF SUCH GENERAL OBLIGATION BONDS FOR SUCH PURPOSES; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF FLAGLER, FLORIDA AS FOLLOWS:

SECTION I. AUTHORITY OF THIS RESOLUTION. This Resolution is adopted pursuant to Chapter 100, Florida Statutes (1987); Chapter 125, Florida Statutes (1987); article VII, Section 12, Florida Constitution (1968), and other applicable provisions of law.

SECTION II. AUTHORIZATION OF BONDS. Subject and pursuant to the provisions hereof, general obligation bonds of the County of Flagler, Florida (herein called "County") are authorized to be issued in the aggregate principal amount of not exceeding Seven Million Eight Hundred Thousand Dollars (\$7,800,000.00) to finance the cost of the purposes described in Section III hereof. The moneys received from the issuance of such general obligation bonds will be used for such purposes and for the benefit of the County. The cost of such acquisition, including an allocation for administrative costs, legal fees, fees of fiscal agents, and other costs associated with the issuance of the bonds, are included in the total cost, and such cost, including all expenses to be funded from these bonds, shall not exceed Seven Million Eight Hundred Thousand Dollars (\$7,800,000.00). Such general obligation bonds shall be payable from ad valorem taxes levied at a rate not exceeding one-third (1/3) of one mil (.33 mil) on all taxable property in the County. None of such bonds shall be issued for a longer term than twenty (20) years from their date of issuance and such bonds shall bear interest at such rate or rates not exceeding the maximum rate permitted at the time of the sale of the bonds.

SECTION III. BOND ELECTION. A bond election of the qualified electors residing in the County is hereby called to be held on Tuesday, November 8, 1988, to determine whether or not the issuance of such general obligation bonds in an aggregate amount of not exceeding Seven Million Eight Hundred Thousand Dollars (\$7,800,000.00), payable from ad valorem taxes levied at a rate not to exceed one-third (1/3) of one mil (.33 mil) on all taxable property in the County, shall be approved by such qualified electors to finance the cost of the acquisition on environmentally sensitive lands, including but not limited to water recharge areas, and lands for parks and recreation, located in the County of Flagler, Florida.

Such purpose described above shall also include other purposes appurtenant, necessary or incidental thereto.

All qualified electors residing in the County shall be entitled and permitted to vote in such bond election.

The polls will be open at the voting places from seven (7) o'clock A.M. until seven (7) o'clock P.M. on the same day.

SECTION IV. PLACES OF VOTING. The places of voting and the Inspectors and Clerks for the polling places for the bond election shall be the same places and persons as for the general election to be held on the same date.

SECTION V. OFFICIAL BALLOT. The form of the ballot to be used shall be in substantially the following form:

OFFICIAL BALLOT
COUNTY OF FLAGLER, FLORIDA
BOND ELECTION - NOVEMBER 8, 1988

PROPOSITION NO. 1

Shall Flagler County Be authorized to levy ad valorem taxes on all taxable property at a rate not exceeding one-third of one mil (.33 mil) for not in excess of Seven Million Eight Hundred Thousand Dollars (\$7,800,000.00) in principal amount of general obligation bonds bearing interest at the maximum legal rate at time of sale and payable from such ad valorem taxes for financing the acquisition of environmentally sensitive lands, including but not limited to water recharge areas, and lands for parks and recreation. The maximum length of this levy is twenty (20) years.

Instructions to voters: _____ Yes = For Bonds
 _____ No = Against Bonds

SECTION VI. ABSENTEE VOTING. The form of ballot to be used in the election for absentee voters shall be substantially the form provided in Section V above.

SECTION VII. PRINTING OF BALLOTS. The Supervisor of Election of Flagler County is authorized and directed to have printed on plain white paper a sufficient number of the aforesaid ballots for use of absentee electors entitled to cast such ballots in such bond election, and shall also have printed sample ballots and deliver them to the Inspectors and Clerks on or before the date and time for the opening of the polls for such bond election for the voting places; and further is authorized and directed to make appropriate arrangements for the conduct of the election at the polling places specified.

SECTION VIII. ELECTION PROCEDURE. The bond election shall be held and conducted in the manner prescribed by law for holding general elections in the County. The Inspectors and Clerks at each polling place shall prepare and file returns of such bond election and shall deliver the same to the County Commission of Flagler County. Such returns shall show the number of qualified electors who voted at such bond election on the proposition and the number of votes cast respectively for and against approval of the proposition. The returns shall as soon as practicable be canvassed by the Flagler County Commission.

SECTION IX. ELECTION RESULTS. If a majority of the votes cast at such election in respect to any proposition or group of such general obligation bonds shall be "yes" votes or "For Bonds" such proposition or group of bonds shall be approved; and then the particular bonds, the issuance of which shall be thereby approved, shall be issued as hereafter provided by the County. If less than a majority of the votes cast at such referendum shall be "yes" votes or "For Bonds" such proposition shall be defeated, and no ad valorem tax for the purposes described in such proposition shall be levied.

SECTION X. NOTICE OF BOND ELECTION. This Resolution shall be published in full once each week for four successive weeks in a newspaper of general circulation published in the County in the manner provided by law, together with a notice of such ad valorem tax referendum, which notice shall be headed "Notice of Bond Issue for Acquisition of Environmentally Sensitive Lands, Including But Not Limited to Water Recharge Areas, and Lands for Parks and Recreation" and shall be in the form attached hereto as Exhibit A. The notice shall be first published at least 30 days prior to the bond election and once in the fifth and once in the third week prior to the week in which the referendum is held, in the manner provided in Section 100.342, Florida Statutes (1987).

SECTION XI. SEVERABILITY. In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, phrase, sentence or paragraph hereof.

SECTION XII. REPEALING CLAUSE. All resolutions or other actions taken by the County Commission in conflict or inconsistent herewith hereby are repealed, insofar as there is conflict or inconsistency.

SECTION XIII. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

ADOPTED IN OPEN MEETING DULY ASSEMBLED IN THE COURTHOUSE, BUNNELL, FLORIDA, THIS 21ST DAY OF JULY, A.D. 1988.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA

s\ Shelton B. Barber

s\ Merhl E. Shoemaker

Shelton B. Barber
Clerk and Ex Officio
Member of the Board

Merhl E. Shoemaker Chairman

NOTICE OF BOND ISSUE FOR ACQUISITION
OF ENVIRONMENTALLY SENSITIVE LANDS,
INCLUDING BUT NOT LIMITED TO WATER
RECHARGE AREAS, AND LANDS FOR PARKS
AND RECREATION.

BOND REFERENDUM

COUNTY OF FLAGLER, FLORIDA

To be held on Tuesday November 8, 1988,
as provided by a Resolution of the County
Commission of Flagler County, Florida,
adopted on July 21, 1988.

Notice is hereby given that a bond referendum will be held November 4, 1988. The bond referendum will be held to determine whether the issuance of General Obligation Bonds of the county of Flagler, Florida, in an amount not to exceed Seven Million Eight Hundred Thousand Dollars (\$7,800,000.00) for a term not exceeding twenty (20) years payable from ad valorem taxes not to exceed one-third (1/3) of one mil (.33 mil) for the purpose of acquiring environmentally sensitive lands, including but not limited to water recharge areas, and lands for parks and recreation, all as more specifically described and provided in a resolution adopted by the County Commission of Flagler County, Florida on July 21, 1988, calling the bond referendum, shall be approved by a majority of the votes cast by the qualified electors residing in the County.

As required by a resolution of the County Commission of Flagler County, Florida, this notice is given by publishing the foregoing resolution in full as follows:

(INSERT TEXT OF RESOLUTION)

EXHIBIT A

MAINTENANCE OF 16TH ROAD - HAMMOCK

WILLIAM SHAFFER, HAMMOCK RESIDENT, CAME BEFORE THE BOARD TO ASK THAT THE COUNTY MAINTAIN 300 FOOT OF THE ROAD THAT RUNS IN FRONT OF HIS HOME BETWEEN HERNANDEZ AND THE INTRACOASTAL WATERWAY. STATED HE CANNOT GET HOME MAIL DELIVERY BECAUSE THE ROAD IS IN SUCH POOR CONDITION. STATED HE LIVES APPROXIMATELY 100 FEET DOWN THE PORTION THAT IS NOT MAINTAINED AND THE ADDITIONAL 200 FEET GOES DOWN TO THE WATERWAY AND IS USED BY LOCAL FISHERMEN.

THE BOARD OF COUNTY COMMISSIONERS APPOINTED COMMISSIONER DURRANCE TO LOOK INTO THIS PROBLEM AND DETERMINE IF THE COUNTY CAN BE OF SOME HELP TO MR. SHAFFER IN MAINTAINING THE ROAD.

FLAGLER BEACH SCHOOL SITE

BETTY STEFLIK, CITY OF FLAGLER BEACH COMMISSIONER, APPEARED BEFORE THE BOARD OF COUNTY COMMISSIONERS TO GIVE A PROGRESS REPORT ON THE OLD FLAGLER BEACH SCHOOL SITE

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, November 13, 2018 at 6:00 PM**

Draft

MEMBERS PRESENT: Chairman Mark Langelo, Michael Boyd, Timothy Conner (arrived at 6:10 pm), Lauren Kornel and Anthony Lombardo.

MEMBERS ABSENT: None

STAFF PRESENT: Craig Coffey, County Administrator; Sally Sherman, Deputy County Administrator and Growth Management Director; Adam Mengel, Planning Director; Gina Lemon, Development Review Planner III; and Wendy Hickey, Planner.

BOARD COUNSEL: Kate Stangle, of Broad and Cassel

Chairman Langelo called the meeting to order

1. Roll Call.

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

2. Pledge of Allegiance.

Chairman Langelo led the Pledge of Allegiance to the Flag.

3. Approval of the October 9, 2018 regular meeting minutes.

*Motion to approve made by Mr. Boyd seconded by Mr. Lombardo
Motion carried unanimously*

Chairman Langelo announced that there a had been public notice for applications #3050 and #3058 for the rezoning and site development plan for Beachwalk, which was not on tonight's agenda. He asked the if there was anyone there to speak on either of these items giving them an opportunity to speak on the record seeing none he continued on with the published agenda.

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

Application #3156 – **APPLICATION FOR SITE DEVELOPMENT PLAN FOR A PUBLIC USE IN C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT** – request for review of a Site Development Plan for a Public Use in the C-2 (General Commercial and Shopping Center) District located at 5862 North Oceanshore Blvd; Parcel Number: 40-10-31-3150-00000-0180; 7.45+/- acres. Owner: Flagler County Board of County Commissioners/Applicant: Captain's Bait, Tackle & BBQ, LLC.

Chairman Langelo asked for ex-parte disclosures; no disclosures were made.

Mr. Mengel, presented the staff report and recommendation.

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, November 13, 2018 at 6:00 PM**

Draft

1
2 Staff recommends that the Planning and Development Board approve Application #3156,
3 adopting a Site Development Plan for a total of 7.45 acres, more or less, identified as Parcel
4 Number 40-10-31-3150-00000-0180, and developed as Bing's Landing Park, and existing Public
5 Use in the C-2 (General Commercial and Shopping Center) District.
6

7 **Jay Livingston Esq., Livingston and Sword, P.A., 383 Palm Coast Pkwy. SW, Palm Coast,**
8 attorney for the applicant. Gave an overview of the current conditions on site and challenges of
9 repairing the existing building and reasoning for the proposal of a newly constructed building.
10

11 **Chairman Langelo** asked when the new building is constructed, and the old building demolished
12 what will happen in that footprint.
13

14 **Mr. Livingston** state there was discussion about using the area to expand parking, but at the A1A
15 meeting their recommendation was they did not want any net loss of greenspace. The hope is –
16 and the applicant supports this – that this will become an enhancement to this part of the park.
17

18 **Chairman Langelo** asked if there was a need for additional parking.
19

20 **Mr. Livingston** responded there is sufficient parking per code based on the size of the existing
21 and proposed building. There was an email sent by Mr. Clark (attached to these minutes as
22 Attachment "A") about the signage, and the sign plan. Except for the existing monument sign,
23 the elevations provided for the building have changed a little bit so we put signs on all the fronts
24 to see how they looked. We don't know if there are going to be three signs or one sign or a smaller
25 sign, that is all dictated by code; they were on the plan for conceptual use only.
26

27 **Mr. Mengel** stated as far as parking is concerned, we know there is a need for additional parking.
28 This is something that we as the owners of the park will be taking care of. Our engineering staff
29 is working on providing additional parking. The existing monument sign and maybe additional
30 signage on the Intracoastal and maybe some wayfinding signage that will be part of the overall
31 park plan.
32

33 **Mr. Lombardo** asked if the applicant is funding the construction and building it or just funding
34 it and the County building it.
35

36 **Mr. Livingston** we will be getting the General Contractor.
37

38 **Mr. Lombardo** so you will be funding and building.
39
40

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, November 13, 2018 at 6:00 PM**

Draft

1
2 **Ms. Kornel** asked if the County has any input on which GC is being selected?
3

4 **Mr. Livingston** stated this the technical part of the process and we have had discussions with the
5 Planning Department and we will go through a review and the second part of this which is not
6 part of the Planning Board's purview, is the Lease Amendment which would go before the Board
7 of County Commissioners at their next or following meeting. We will incorporate any
8 recommendation the Planning Board has for the site plan that needs to go into the lease.
9

10 **Chairman Langelo** opened the public hearing
11

12 **Dennis Clark, 5784 N Oceanshore Boulevard**, provided a handout to the Board, and presented
13 a Power Point Presentation (attached to these minutes as Attachment "A"), spoke of moving to
14 the area in 2005 and its natural beauty. He went on to discuss how the parks parking has increased
15 over the years and the need for it. He spoke in opposition and his reasons are that the proposed
16 location is the center of the park, the only spot under the trees with an unobstructed view of the
17 Intracoastal. The park is already 34% covered with structures, parking and sidewalks, which is
18 twice as much as another fully developed park, Holland Park. The proposed increase of seating
19 by 50% to 150 seats creates the need for additional parking, which will turn the park into a parking
20 lot on environmentally sensitive lands.
21

22 **Joy Ellis, 85 Ocean Oaks Lane**, provided a handout to the Board (attached to these minutes as
23 Attachment "B") and spoke in opposition of the project her reasons is that this is a unique
24 environmental and recreational historic park and should be maintained as such without additional
25 impacts.
26

27 **Dr. Lynn Bravo Rosewater, 200 Ocean Crest Drive, Apt. 815**, provided a handout to the Board
28 (attached to these minutes as Attachment "C") spoke in opposition of the project. This project is
29 not consistent with the Land Development Code, SEC. 3.06.058 that this use is consistent with
30 the Comprehensive Plan and that the use is necessary viable to support community needs, this is
31 a park. The proposed building is bigger than the existing building. It is injurious to the county
32 because it is a park. It takes up area that people use as a park. As public land there is a
33 responsibility to take care of the land for all citizens to utilize it. You should look at is it in the
34 best interest of the citizens to relocate this building to the proposed location. It should not happen
35 on public land. This is a public park not a public restaurant.
36

37 **Jonathan Dunham, 15 Pamela Parkway**, spoke in opposition to the expansion and relocation
38 of the restaurant, thinks they should use the existing foot print.
39
40

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1 **Janet Sullivan, 35 Nantucket Drive**, spoke in opposition to the expansion and relocation of the
2 restaurant quoting sections of the Flagler County Comprehensive Plan.

3
4 **Randy Odom, 30 Carolina Highway**, spoke in opposition to the project, He shared his concerns
5 about public notice for this item he also had concerns that the applicant has over reached in their
6 scope of their business multiple times since the origination of the lease starting as only a a bait
7 and tackle no food to packaged food BBQ restaurant. The 5200 square foot proposed building
8 and 3600 square feet used for eating area leaving a lot of additional space for something else. He
9 also is concerned that by having 150 seats the applicant may be able to get a liquor license which
10 there is one available in this area that also include package sales. Another concern is parking this
11 group has come forward as recently as six months ago requesting additional parking they have
12 been approved on some and denied on some but they keep coming back last time they asked for
13 an additional 35 spaces in the park area. This will turn Bing's Landing into a parking lot and a
14 septic drainfield. The septic system will require approximately a half acre drainfield, 6,000 gallons
15 for the restaurant alone plus for the park use. To put in a drainfield you have to get rid of the trees.
16 The process should be equitable on how it is handled and transparent there are many people
17 concerned I believe if Captains BBQ wants to expand they should buy their own land and not use
18 this process to accomplish it.

19
20 **Joanne Ritter, 3462 North Oceanshore Boulevard** spoke in opposition to the expansion and
21 relocation of the restaurant. It is a public subsidization of a private enterprise. Concern of the
22 removal of oak trees for the expansion Let them rebuild in the same foot print not expanding into
23 the park.

24
25 **Bruce Page, 1520 Lambert Avenue**, spoke in support of the project. Feels Captain's BBQ is an
26 asset to the county.

27
28 **Chairman Langelo**, closed the public hearing and asked if the applicant would like to respond.

29
30 **Mr. Livingston**, provided a full size survey of Bings Landing, there was some information given
31 about the location of the location of the new building I just want to make sure everyone is clear.
32 He showed the park and the existing building, he then produces a copy of the siteplan that was
33 submitted depicting the existing and proposed building footprint. He then noted that by taking
34 into consideration Scenic A1A's recommendation of not creating this as a parking lot as it was
35 part of the initial discussion with the county but by enhancing this area we are creating additional
36 green space for the park. It is not in any way in the middle of the park. It is just on the opposite
37 side of the existing sidewalk. Responding to why we cannot rebuild in the current location that
38 would shut down the restaurant and cost 15-17 people their jobs and significantly impact revenue
39 of the business owner. It would require some negotiation of the lease and or which would put
40 some liability on the county for not suppling the facility that was leased that was not the intention

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1 of the applicant and this seem like a better option a fine location the site plan that was submitted
2 included a tree survey and you can see we have minimized the impacts to trees. Mr. Clark provided
3 some information from an arborist on how we could further minimize impacts to the trees and
4 they will all be taken into account. The drainfield of the septic system which is not our
5 responsibility. It is the County's responsibility to enhance and upgrade the septic system. It is my
6 understanding that it will be designed in a way to meander through as to not create any impact to
7 existing trees. There is more than enough space throughout the park to do this. The issue of a
8 restaurant within a park was brought up at A1A. Restaurants in parks is something you will find
9 throughout the state of Florida and in most states and countries. In Flagler County we have Bull
10 Creek, which is a park we have Hijackers which is on county property, the Funky Pelican is on a
11 municipal pier and we have Captains BB-Q at Bings Landing. I grew up in south Dade County
12 and they have a Black Point Marina which is a county facility has a restaurant which has a full
13 bar which we are not proposing for this project. Mr. Odom mentions something about the seating
14 count and the liquor license. There is no intention to purchase a \$100,000 (one hundred thousand)
15 dollar liquor license or have any package sales. The seating requirement is to recoup the expense
16 the estimated cost for this building is \$ 1,000,000 (one million dollars) the business owner has
17 agreed to fund and dedicate it to the County. The added seating the more efficient use of space.
18 The original RFP is include BBQ the actual use has always been a BBQ restaurant as well as a
19 bait and tackle shop that amenity will still be available at some location on site as part of the lease
20 requirement. It is a fishermen's park.

21
22 **Mr. Boyd,** We have heard that the new building is the same size as the existing building and we
23 have heard its going to be larger than the existing building which is it?

24
25 **Mr. Livingston,** responded the new building will encompass everything that is cover by the
26 existing lease. There is a little difference between what is leased and the actual structure. The
27 eating area, kitchen area, bar lounge area, ordering counter, rest rooms, smoker area and additional
28 kitchen storage area, and deck. All those uses are housed on the space that is leased, the smoker
29 area is outside the wood storage area is outside, and we are proposing that all of this will be under
30 roof except for the smoker.

31
32 **Mr. Boyd,** so the footprint will be close to the same thing.

33
34 **Mr. Livingston,** respond yes

35
36 **Mr. Boyd,** if the building is built what will be done with the existing site?

37
38 **Mr. Livingston,** there were discussions of using it for additional parking A1A recommended it
39 be enhanced for a zero net loss of greenspace which we support and since the location of the
40 existing building is closer to the water there is an opportunity to create some amenity once the

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1 existing building is demoed. We are not responsible for the parking part as stated in the application
2 there is a raw parking requirement and the number of existing parking spaces in the park is noted.
3 The park as a whole may need additional parking spaces. That is something that will be discussed
4 as part of the lease and the lease amendment. Our application is only this building and the
5 monument sign which already exists and will not change. The rest is the park and under the
6 jurisdiction of the county. So people should make sure they talk to their elected officials and
7 county staff.
8

9 **Mr. Boyd**, I guess if they are willing to spend so much they must have a good business there.
10 Somebody must be enjoying the restaurant. But I can also understand the problem with the
11 aesthetics, and people wanting to maintain the integrity of the park.
12

13
14 **Chairman Langelo**, to clarify the applicant is not responsible when they tear the building down
15 that is the county that is going to be doing that and replacing it.
16

17 **Mr. Livingston**, responded yes
18

19 **Mr. Lombardo**, How much in depth did you go into in regards to replacing the actual building
20 ad not having to build something new? Did you really do the research to put in the time frame
21 cost wise before just making the decision to build something new?
22

23 **Mr. Livingston**, The cost would be about the same, we would probably replace it with a similar
24 structure that is proposed in the plan. The problem is it is going to take better part of a year to go
25 through permitting, the archeology component has to be gone through we cannot disturb dirt out
26 at the landing without going through archeology review and that shuts the business down for a
27 significant amount of time. From the perspective of the applicant they are tenant under a lease.
28 They were provided a building that is not suitable for the use it is leased for. This is a compromise
29 in the sense that finding a new premises without having any interference with lease rights of the
30 tenant as well as enhancing what is a building that is falling apart. The most egregious example
31 is of many is an employee fell through the floor and the toilet in the bathroom literally fell through
32 the floor this is how bad the structural integrity of the building is. Whether the applicant twill be
33 willing to shut the restaurant down for an extended period of time the answer is no, and it will
34 consistent with our rights in the lease.
35

36 **Mr. Lombardo**, I don't know if I can make a decision on this without knowing what is going to
37 happen to the existing location. I would like to see a plan or conceptual design.
38
39
40

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1 Chairman Langelo, the applicant would not be doing what you are asking technically the County
2 would be doing it.

3
4 Mr. Mengel, which is the County's obligation. Within the draft lease amendment there is a data
5 table indicating 71 caliper inches of hardwood and palms would be removed with the new
6 building. We proposed in the lease revision would be they would come back with at least 5 trees
7 And additional shrubs in the building area with an additional 10 hardwood trees and 10 palm trees
8 to plant in the park for mitigation for trees removed. It is an attempt to mitigate the impacts it is
9 our obligation and we take it seriously to preserve the natural aspects. I am not a t appoint where
10 I can commit to its future use. We are responsible for master planning the park. It is our obligation
11 and it does not concern the applicant.

12
13 **Mr. Craig Coffey, County Administrator**, as far as where the existing building is we are tasked
14 by the Board of County Commissioners to do 2 things it is all in relation to parking and this goes
15 back 2 years, first we acquired the southern property, to sat there is no trees or landscaped area
16 there is a whole southern area that just has a trail. When we acquired that we received a grant and
17 originally there were obligations for trails, and a pier and parking as a requirement of that. The
18 State is more lenient on that but there is a requirement for 35 parking spaces as a condition of the
19 grant, we built everything else but the 35 parking spaces. We did try to get out of that they let us
20 out during the down-turn they would still let us out today but we have a real problem with parking.
21 We have time when we are all full at Bing's Landing, it is great if you live 4 doors down or you
22 can bike there we do have a growing community and people like to go to Bing's Landing. We
23 were tasked by the Late Commissioner Meeker to reevaluate the current parking on the north side
24 of the drainage canal to see what parking we could put in that area. We did look at that and we
25 think we can gain about 10 spaces. We are in a dilemma and we are going to address parking and
26 that has been the mandate from the Board to the Staff. There is 2 ways we can do it we can create
27 a new parking lot on the south parcel, south of the man ditch which is not as attractive with very
28 little tree removal, it is not good for access, or we can relocate and build parking here which helps
29 with folks launching canoes and kayaks it is right near the water we can attractively landscape
30 and add seating areas and we can have a caretakers place up there effectively where the building
31 is, we would be working around trees it would be unpaved parking between there and the caretaker
32 is we could likely get 35 to 40 parking spaces we have been working on those designs. It is our
33 intent as part of the lease to something like that. We want Bing's Landing not only for the people
34 who can walk or bike there but to be able to drive there.

35
36
37 **Chairman Langelo**, asked if the future plan would come before the Planning Board?
38
39
40

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1 **Mr. Coffey**, It might depending if we built another one to the south it would be if we reconfigured
2 the existing one probably not. We have reconfigured it about 3 times to gain additional parking
3 space for the biking trail, the restaurant and for people going there for different reasons, pavilion
4 rentals we have had a lot of demand for parking at the park.

5
6 **Mr. Lombardo**, this south addition part of Bing's?

7
8
9 **Mr. Coffey**, yes there is a large area that is not shown on the drawing provided, there is no tree
10 removal there is no parking on it is 3 or 4 parcels

11
12 **Mr. Lombardo**, did you consider rebuilding there instead of disrupting the center of the park?

13
14 **Mr. Coffey**, that was considered the problem we have is the septic system we would have to
15 introduce another septic system on the other side of the ditch, you would have to introduce
16 parking.

17
18 **Chairman Langelo**, isn't that natural except for the path that runs through?

19
20 **Mr. Coffey**, Yes

21
22 **Chairman Langelo**, so we would be interfering with more native vegetation and wildlife that is
23 living there.

24
25 **Mr. Coffey**, Yes,

26
27 **Ms. Kornel**, I love this park and it is dear to my heart. In 2001 we wrote a number of grants
28 through the Trust for Historic Preservation had us acquiring lots of money to do projects on that
29 site between 2001-2004. My predecessor wrote the Phase 1 and Phase 2 for that site I wrote Phase
30 3 along with the guidance of Mr. Hadeed. We went up to Tallahassee and was successful in getting
31 a FRDAP (Florida Recreation Development Assistance Program) Grant for \$250,000. There is a
32 lot of information out on that site. The Archeological surveys have been completed. I would
33 suggest the county pull those out and see what is there in the site proposed. I do support the
34 project. The surveys completed by Environmental Systems ESI. It was nationally designated and
35 it did win an award by the Florida Trust and what is really significant about this site besides the
36 environmental characteristic and everything else is. The plantation was owned by Joseph
37 Hernandez who was Florida's first voice in the U.S. Congress and its first Hispanic member. I am
38 just pointing out this site is very important to the citizens of Flagler County including myself and
39 should be hundreds of thousands of dollars have been spent on this site. The applicant does have
40 an excellent proven track record it is a great business. I would like to know exactly what is square

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1 footage under roof of the existing building and what is the square footage underroof of the new
2 building.

3
4 **Mr. Livingston,** square footage under roof including the covered porch is 1612 plus outside area
5 by the door of 330 square feet and deck is about 1200 square feet, that is the under roof portion.

6
7 **Ms. Kornel,** I am just trying to establish the difference in square footage. I understand the
8 footprint is not that much larger, I am just trying to get the difference in square footage.

9
10
11 **Mr. Livingston,** There is very little difference in usable space. The best way to understand is that
12 features that are outside of the building now will be part of the new building and footprint. If you
13 take the area internal and external of the leased space it now be under roof. Foot print of the
14 building is about 1,000 square feet difference we currently have 4,486 square feet including all
15 additions and storage space.

16
17 Ms. Kornel, the County was not required to do a legal ad.

18
19 Mr. Mengel, correct. Sec. 207.00 of the Land Development Code there is no requirement.

20
21 Ms. Kornel, so the county followed the rules on having a public meeting and they did meet with
22 scenic A1A Pride on October 26, and it is not exactly a noticed meeting but it is along the lines of
23 having a neighborhood meeting. This is where the County on my humble opinion can make an
24 improvement in the Land Development Code by requiring a neighborhood meeting. I think it is a
25 good project. I support the project I am not sure I support it at the location proposed I am not sure
26 I support it under the conditions it is being proposed I wish there had been a neighborhood
27 meeting. I wish more input from the public would have been garnered under the circumstances it
28 is a public piece of property. Here we are at a Planning Board meeting once again debating the
29 details and there doesn't seem to be a Master Plan for this site. I remember when we wrote a
30 Management Plan for the Old Brick Road and we wrote one for the rail trail as well. I do not
31 believe there is a Management Plan for this site. I am in support of this project but not in this
32 location and I am having a hard time thinking if I am going to vote for this project. When the
33 County makes a point of saying they cannot commit to a Master Plan or an overall concept for
34 parking showing everything together all encompassing for the site.

35
36 **Mr. Livingston,** We did look at the archeological report to make sure the location was not an
37 issue. At the end of the day if you do not disturb the surface ground and you put a foundation
38 cap on top of it archeologists love that because you are preserving what is below the ground as
39 long as you are not disturbing below the ground below if you do then you have to catalog anything
40 artifacts you find.

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1 Chairman Langelo, I was here when this item was brought to the County to become Bing's
2 Lading Captains BBQ it was right from the beginning it was supposed to be a bait shop and BBQ
3 food place. I have lived here a long time and on this property, I remember when it was a private
4 landing and I didn't know there was an historical thing on it. When they were building the building
5 there I didn't know what that was but I did find out when I went to Captains BBQ. I think a lot of
6 people have visited that site the archeological site because the BBQ was there. As far as the
7 archeological site I think this is enhancing it. Because of the people that show up at this park they
8 wouldn't know it was there. The idea of making the private use on a public property is done all
9 over the place. I think Mr. Page but it very well there is 100,000 people in the community and
10 outside the community and they can come to this park and enjoy it and people do. They don't
11 just go for the BBQ they go for a lot of reasons. That is why there are parking issues there is
12 boating there are people on the trail on the south part of the property, I bike through there. The
13 natural trail that goes through there to tear out that and put the building back there would do more
14 harm and that is probably prudent. That building is in pretty bad shape, it was in pretty bad shape
15 when they took it and they put the work into it. I remember building so I am giving testimony
16 from my point of view. It most likely had had its time. The project is going to benefit the
17 community in every way. This park has been enhanced because they are there, the jobs in the
18 community has helped the economy, but moreover , this park the public can use it and enjoy it
19 more

20 I think as a business owner if they had to shut down to but it back in the same place they would
21 not be here. When this was advertised with just the bait shop no one would have showed up they
22 could not get anyone to rent this building because the guy who had the bait thing went out of
23 business. So when this concept came up and these applicants brought this forward it was a big
24 success. I will bet the bait is a very small part of the business. There is more going on there than
25 just people showing up to fish. The building is unsafe with the fall through the fall it is just going
26 to get worse and if they would have to move out of their business for a year and try to open back
27 up it probably wouldn't happen. I do not see this as unreasonable to ask about the foot print
28 because there is definitely outdoor stuff that is not as attractive as it could be now under one roof
29 is going to enhance the park. It is probably better than we see here. I would argue that removal of
30 this building is going to be a better view because this building right now is at the mouth where
31 the boats come in and moving the building over would probably enhance that better view looking
32 straight out. I don't think we are hurting the view any yes there will have to be a few trees that
33 have to come out and some trees are going to die new trees will be planted and in time there will
34 be more canopy. Looking at the pictures shown there is a pretty dense canopy right now. This is
35 not a property that is starved of a canopy I personally think it is a big issue. I do appreciate the
36 view from the public of the area wanting to keep it the way it was we see this on this Board a lot.
37 People don't want anything to change but to most of their own testimony they weren't opposed
38 to the BBQ they were why do you have to do it there. Because it is not feasible to do it any other
39 way. I am in favor of it the way it is.
40

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1 **Mr. Connor**, as I understand it we have a lease that has been in existence since 2011. That lease
2 obligates the County to provide space for the tenant. He is currently operating a successful
3 business as pointed out by Mr. Boyd and the information we have before us is that the disruption
4 of that business would be costly. I presume as the landlord under this lease Flagler County would
5 have the responsibility to cover those losses if that were to occur. So we are looking for a way to
6 keep our lease obligations intact and the applicant is willing to invest a million dollars for a
7 building that is going to be dedicated to Flagler County.

8
9
10 ***Motion to approve made by Mr. Connor, seconded by Mr. Boyd.***
11 ***Motion passed 4-1 with Ms. Kornel dissenting***

12
13
14 **Chairman Langelo**, introduced the new member of the Planning Board, Mr. Michael Goodman,
15 noting that he was not seated until after the previous item was presented. He also noted that the
16 asked for an item to be placed on the agenda concerning the makeup of the Board and the change
17 in the code which dictates the makeup of the Board. He then asked the Board for a consensus to
18 add this item to the agenda.

19
20
21 **Chairman Langelo**, distributed a handout attached to these minutes as attachment "D". He spoke
22 of the establishment and the selection criteria for the Planning and Development Board and the
23 changes made by the Board of County Commissioners through Ordinance 2018-15 adopted on
24 September 5, 2018, restricting Board membership to Unincorporated County residents only.

25
26 **Mr. Boyd**, spoke of his history on County Boards over the years and how at time though planning
27 for Unincorporated Flagler County he was the only member from Unincorporated Flagler County
28 all the other members were from Palm Coast or Flagler Beach. The Cities do not let others sit on
29 their board and determine their future. I don't see the need for anybody determining the future of
30 Unincorporated Flagler County who is not resident of Unincorporated Flagler County. A Board
31 that is going to determine the future and the only thing that is left to plan is west of US 1 with a
32 few areas in the hammock. That planning should be done by the people from unincorporated area
33 of Flagler County.

34
35 **Chairman Langelo**, I just think it should be 3 or 4 from the Unincorporated County.

36
37
38 **Mr. Lombardo**, I agree with 3 seats unincorporated western Flagler County and other seats fills
39 by other areas.
40

Attachment "A"

Dennis Clark statement to Planning & Development Board - 11/13/2018

Re: Captain's BBQ proposed relocation

I'm Dennis Clark and I live on A1A four lots south of Bings Landing. Today I'm speaking for the man who visited Bings Landing in 2004. He looked a lot like me, except with more hair. He and his wife had traveled much of Florida looking for a location to retire when, purely by accident, they visited friends in this area. Here they discovered a beautiful little park on the intracoastal. It made such an impression, along with the surrounding area, that they decided this would be it. They moved in 2005 and have lived here ever since. Since then, the park has doubled the parking area with the addition of the north parcel.

I understand why you want this. Who wouldn't want to get a free restaurant donated to the County? The problems I have are:

1. The spot chosen for the building is *the center of the park* - the only spot left to sit under the trees with an unobstructed view of the Intracoastal while not sitting up against a building.
2. This small park is already *34% covered* with structures, parking, and sidewalks. That's *over twice as much* as another heavily developed park we know, Holland Park
3. The new building *increases the seating by 50% to 150 seats*. That creates a need for more parking. Well, guess what? We can use the space where the old building was. How convenient.
4. When will it be enough? This park is already built to capacity. This plan will turn it into a parking lot with a restaurant and a boat ramp and an archaeological pavilion.

This is not about rules and regulations, or what is allowed or not allowed, or even what is considered efficient and practical. This is about taking the last bit of natural resources in a beautiful small park and putting a building in its place. It might be a great looking building, but what is lost is much more beautiful. Many of us can remember the park before the archeological shelter was constructed. We went along with that because we should preserve history. But this is pure destruction.

People I've spoken to would be just as satisfied if the current building were completely removed and nothing put in its place. There are other restaurants, even across the street, and more coming all the time, including one planned to be on the Intracoastal.

This park is a beautiful intrinsic resource of the National Scenic Byway and of Flagler County. It is not a parking lot for a restaurant. It was purchased with Environmentally Sensitive Land funds, as was the north addition which became a parking lot. There is lots of parking, but precious little park remaining.

To nature lovers, this is like oxygen. You don't notice it until it's gone. We should not allow this to happen.

Dennis Clark
5784 N Oceanshore Blvd

11/13/18
Dennis Clark Exhibit

Dennis Clark

on Captain's BBQ Relocation Proposal

Planning & Development Board

11/13/2018





Current View from Parking Lot



Current View



Proposed New Building

Bings Landing Non-Green area		Acres	Sq Ft	length	width
Parking	North	2.0960	91,286		
	Central	1.1300	48,473		
Buildings	Archeology	0.2460	10,709		
	Large Pavilion	0.0750	3,253		
	North Pavilion	0.0290	1,284		
	Gazebo	0.0850	3,688		
	Caretaker's Residence	0.0760	3,298		
	Restroom	0.0370	1,605		
Sidewalk	South sidewalk	0.0262	1,140	285	4
	Parking to pier	0.0523	2,280	570	4
	BBQ to restroom	0.0289	1,260	315	4
	West dock to pier	0.0235	1,024	256	4
	Parking to archeology	0.0362	1,576	394	4
	by North pavilion	0.0243	1,060	265	4
	South footbridge to pier	0.0231	1,008	252	4
Totals		3.9886	172,944		
Total Area of Park					
	Parcels	Acres	Sq Ft		
	North 1	1.3589	59,195		
	North 2	1.3308	57,969		
	Central	7.4481	324,440		
	South 1	1.1725	51,073		
	South 2	2.2933	99,894		
	Totals	13.6036	592,571		
	Marina	(0.92)			
	S. addition water	(0.75)			
	N. addition water	(0.22)			
		(1.89)			
	Total uplands	11.7126			
Current Non-Green Space (parking, buildings and sidewalks)		34%			

From the current Captain's lease.

Lessee acknowledges that Bings Landing Park is a unique environmental, recreational and historical park facility that: is located on the AIA National Scenic Byway; is part of the Flagler County Coastal Greenway; is within the National Estuarine Research Reserve of the United States; includes historical resources that are listed on the National Register of Historic Places; and has received national and state awards for its historical, environmental, and scenic qualities. Lessee acknowledges that Lessor has achieved these characteristics and attributes with substantial investments of its funds and staff, numerous grants from the State of Florida and the federal government, and broad based volunteerism from its citizens and civic groups. Lessee further acknowledges that it will operate its facilities and services to the public in recognition of and in respect for these attributes and the park's importance to the citizens of Flagler County and the State of Florida, and accordingly will not compromise or harm the quality or reputation of this unique park or its resources. Lessor desires that Lessee be free to utilize the attributes and qualities of the park in its promotion of its business interests and in its service to the public.

173 #3156
Joy Ellis Exhibit
11/13/2018

From the Land Development Code

3.06.05. Public, semi-public and special uses.

B. *Public and semipublic uses.* Public and semipublic uses excluding special uses as defined by this Article, may be permitted as follows:

1. Any public or semipublic uses may be permitted in any land use district provided that the request for such use is officially made to the planning board by the public body or semipublic body desiring such use. The planning board shall determine whether or not such requested use is consistent with the adopted comprehensive plan and whether the use is necessary or desirable to support projected community needs. Public or semi-public uses and structures determined to be consistent with the comprehensive plan and necessary or desirable may be located in any land use district upon recommendation of the planning board, based in part on the submittal of a site plan showing site alterations, improvements to be made, and proposed buffers and conceptual landscaping plans. The site plan need not be engineered. The permitted location of public or semi-public uses or structures shall be such as not to be injurious to the health, safety and welfare of the public and shall protect the existing character of the surrounding properties or neighborhoods. The planning board shall consider the impact of the proposed use on land development patterns, on important natural resources, and, where applicable, the cost effectiveness of service delivery. The planning board also shall determine whether the proposed use will impose any substantial detrimental effects on the living or working conditions in the neighborhood.

160

Flagler County Comprehensive Plan

Recreation and Open Space Element

Objective 3: The natural, recreational, archaeological, scenic, historical and cultural resources of the A1A Scenic Highway shall be preserved and enhanced for Flagler County residents and visitors.

Policy 3.3: The County supports the River and Sea Scenic Highway Corridor Management Plan.

Policy 3-6: The County shall identify historical, cultural and educational tourist opportunities and improve recreational facilities *without adversely impacting natural resources* along the Scenic Corridor.

Dec 11/13 - Beachwalk

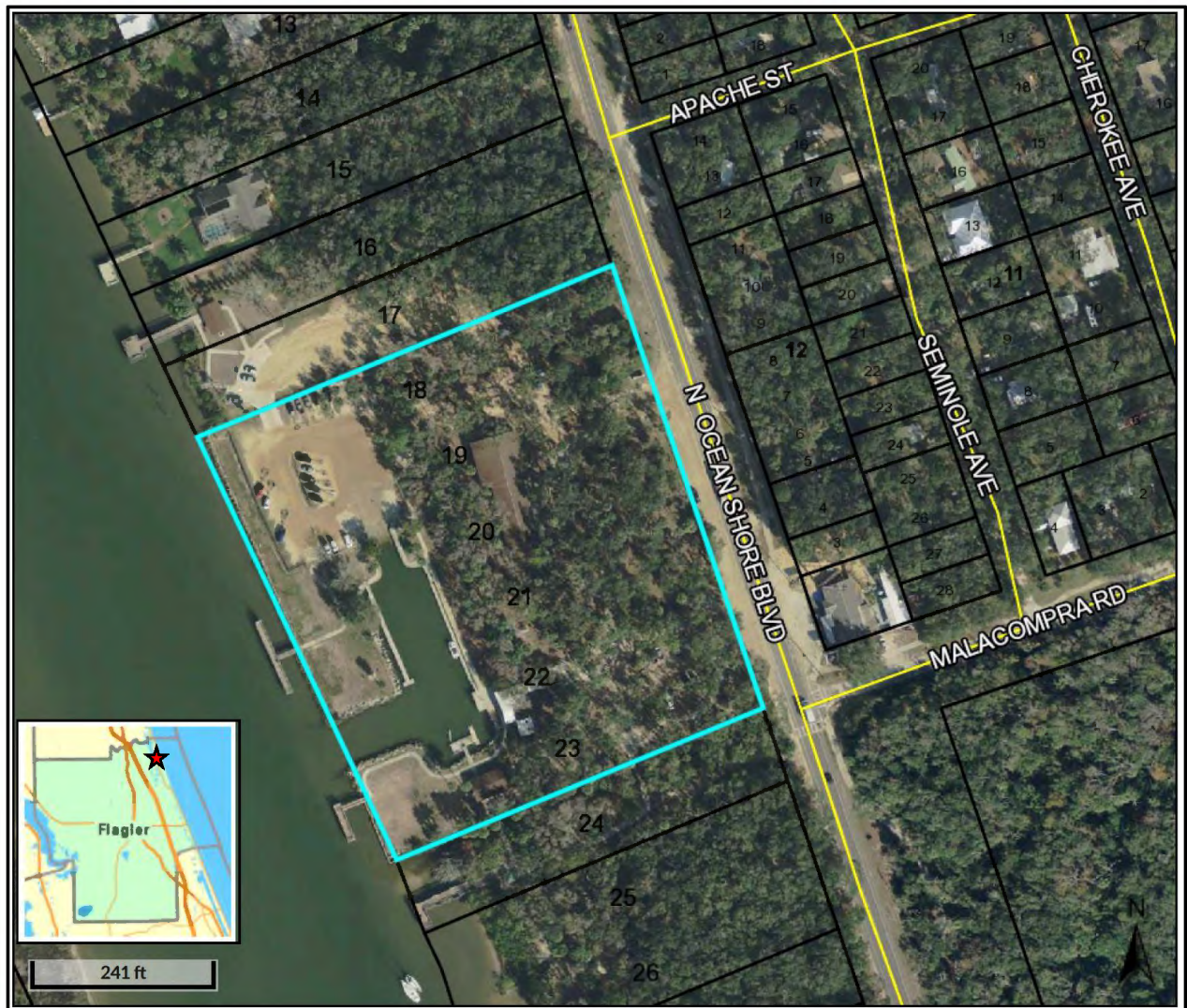
App #3156

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

SUBJECT: **QUASI-JUDICIAL** – Application #3156 – Request for Site Development Plan approval for an existing Public Use in the C-2 (General Commercial and Shopping Center) District located at 5862 North Oceanshore Boulevard; Parcel Number: 40-10-31-3150-00000-0180; 7.45+/- acres. Owner: Flagler County Board of County Commissioners/Applicant: Captain's Bait, Tackle & BBQ, LLC (Project #2018090035).

DATE OF MEETING: November 13, 2018

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The request is for approval of a Site Development Plan for an existing Public Use in the C-2 (General Commercial and Shopping Center) District for development of a new restaurant building for Captain's BBQ, the County's tenant at Bing's Landing Park. The subject parcel is 7.45+/- acres in size (with the proposed development area limited to 2 acres) and is located on the West side of North Oceanshore Boulevard (a/k/a State Road A1A):



The applicant submitted an application for site development plan review in September. The purpose of the submittal was to seek authorization to replace the existing restaurant building, which is structurally unsound, with a 25% larger building. The location of the proposed new building would allow the applicant to continue operations while the new restaurant building is constructed at the applicant's expense (and would allow the County as the landlord to satisfy its terms of the existing lease). Modifications to park infrastructure, like utility services, water and septic systems, parking and signage, would be the responsibility of the County, along with the demolition of the existing structure once work on the new building is complete.

This application was reviewed by the Technical Review Committee at its October 17, 2018 regular meeting: all outstanding comments have been satisfactorily addressed prior to the Planning and Development Board's consideration of this request. On October 26, 2018, the Scenic A1A PRIDE Committee considered this request and subsequently provided their recommendation to the County through their letter dated November 4, 2018 (attached), with Scenic A1A's summary recommendation provided in part below:

"After a lengthy discussion, Scenic A1A PRIDE board voted 7-2 in favor of the proposal (G. Hansen and M. Goodman abstaining) with the provision that there will be no net loss of green space. Also included in the motion was the provision that any parking changes be reviewed by Scenic A1A PRIDE before implementation. During the meeting, it was clear that Scenic A1A PRIDE opposed any increase in building size or increased parking requirements as compared to the existing business. There was a strong recommendation that the footprint of the demolished building be converted to useable green space." (original emphasis).

This agenda item is:

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

RECOMMENDATION: The Planning and Development Board approves Application #3156, adopting a Site Development Plan for a total of 7.45 acres, more or less, identified as Parcel Number 40-10-31-3150-00000-0180, and developed as Bing's Landing Park, an existing Public Use in the C-2 (General Commercial and Shopping Center) District.

ATTACHMENTS:

1. Technical Staff Report
2. Site Development Plan
3. Application and supporting documents
4. TRC comments
5. A1A Scenic PRIDE recommendation letter

**APPLICATION #3156
SITE DEVELOPMENT PLAN IN A PUBLIC USE
IN THE C-2 DISTRICT
TECHNICAL STAFF REPORT**

Project: Site Development Plan in an existing Public Use in the C-2 (General Commercial and Shopping Center) District

Project #/Application #: 3156/2018090035

Owner: Flagler County Board of County Commissioners

Applicant/Agent: Captain's Bait, Tackle & BBQ, LLC

Parcel #: 40-10-31-3150-00000-0180

Parcel Size: 7.45+/- acres (development area limited to 2+/- acres)

Address: 5862 North Oceanshore Boulevard, Palm Coast

Existing Zoning and Land Use(s)

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

Land Use: Recreation and Open Space

Future Land Use Map Classification/Zoning of Surrounding Land

North: Mixed Use: Low Intensity/MH-3 (Mobile Home Park) District

East: North Oceanshore Boulevard; Mixed Use: Low Intensity/R/C (Residential/Limited Commercial) District

South: Recreation and Open Space/R/C (Residential/Limited Commercial) District

West: Atlantic Intracoastal Waterway

Report in Brief

The Board of County Commissioners initially approved a lease agreement with Captain's BBQ and Bait & Tackle on June 6, 2011 (Agenda Item #7B) for operation of the on-site concessions operation with bait and tackle at Bing's Landing Park. On April 20, 2015, the Board amended (Agenda Item #9) the original five year lease agreement – beginning September 1, 2011 and ending on August 31, 2016 – with Captain's Bait, Tackle and BBQ, LLC, by extending the lease for an additional five year term at the tenant's option with a County-optional additional five year term so that the tenant could recoup over \$100,000 in tenant improvements made to the concessionaire building, including: complete build-out of the interior space; installation of a grease trap; installation of a new HVAC system; adding an enclosed porch; expanding the food preparation area; adding a hood exhaust system; adding an enclosed cooking area; and outside site improvements including fencing, landscaping, handicapped-accessible parking, and sidewalks.

However, unbeknownst to the County as the landlord and the applicant as the tenant, the pier foundation and load-bearing framing for the concessionaire building had deteriorated due to its wood-frame construction and the long-term accumulation of standing water beneath the building, leading to extensive rot which was only recently discovered. While

emergency repairs were completed to meet the terms of the lease and maintain operations at the restaurant, the present condition of the existing building – initially built in 1990 at 1,594 square feet and subsequently expanded to total 2,274 square feet according to the Property Appraiser, while the plan submittal indicates the existing building totals 4,157 square feet in size – calls for extensive repairs that would be more cost-effective to demolish the existing building and reconstruct.

Property Appraiser's graphic of the footprint of the existing concessionaire building:



To satisfy the terms of the County's lease, the tenant has proposed construction of a new 5,200 square foot restaurant building – to be privately financed and built by the tenant – to the North of the existing concessionaire building. This construction – if ultimately approved by the Planning and Development Board through this site plan request and subject to approval of an expanded lease by the Board of County Commissioners – would allow the existing operations to continue throughout the term of construction, with the existing building to be demolished following the completion of the new building. This construction schedule and plan would: maintain restaurant operations at the existing building; fulfill the lease obligations of the County/landlord; continue the terms of the lease for (and payments by) the applicant/tenant; and result in no lapse in other contractual obligations of the tenant (for its suppliers) and no reduction in staffing at the restaurant due to the continuing operations.

Land Development Code Sections Affected

Land Development Code (LDC) subsection 3.06.05.B.2: "Public or semipublic uses existing at the time of the effective date of this article and as indicated on the Land Use Map of 1985 are hereby legally established as conforming public and semipublic uses. Modifications that involve additional structures or improvements on existing or approved sites shall require site plan review by the planning board. Expansion of public or semipublic uses which include additional land shall require application and meet all requirements under this section 3.06.05."

Standards for Review

The specific site plan requirements of Public, Semi-Public, and Special Uses are listed at subsection 3.06.05.E.1.(b):

"An application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the planning director. Such site plan shall include, as a minimum, the following:

- (1) Lot dimensions with property line monuments located thereon.
- (2) Location and size of existing and proposed structures.
- (3) Easements (public and private), water courses, wetlands, existing and proposed fences, street names, and street right-of-way lines and such information regarding abutting property, as directly affects the application."

Staff has determined that Bing's Landing is a public use existing at the time of the effective date of this article [March 18, 1991] through the County's purchase of Bing's Landing on October 4, 1989 (and recorded on October 4, 1989 at Official Records Book 408, Page 596, Public Records of Flagler County, Florida. As a modification involving additional structures or improvements, site plan review by the Planning and Development Board is needed. For such purposes, a site plan has been prepared and submitted by the applicant for review by the Planning and Development Board.

The A1A Scenic corridor overlay district includes specific standards (at LDC subsection 3.06.11.B through G) for development within the limits of the overlay, which includes the Bing's Landing Park parcel. Of note as these standards relate to the proposed development, the plan:

- does not include a commercial metal building;
- does not have a building length exceeding 200 feet;
- does not include a corporate signature or commercial prototype architecture, or exotic or out of character architectural style (the proposed style is a variant of Florida Cracker, with a metal roof and covered porch); and
- exterior walls are clad in horizontal siding elements with a metal roof.

The proposed plan meets the County's A1A Scenic corridor overlay district requirements.

Archaeologic/Historic Preservation

While the County's Land Development Code lacks specific historic preservation requirements, the 2010-2035 Comprehensive Plan includes, as part of its Conservation Element, a Historic Preservation Sub-Element which, among other things, requires preservation of historic sites. Since Bing's Landing was acquired under the dual pretense of historic preservation (of the Hernandez MalaCompra Plantation site) and public recreation use (as a 20th Century fish camp and recreational vehicle park), should any archaeological features be found in the construction of the new building, the site will be specifically subject to the following Comprehensive Plan Policy:

"Policy F.1.13.2: As an alternative to preserving historic and archaeological sites, a site may be scientifically excavated, then development may proceed without preserving the site providing that it occurs in accordance with other State and Federal regulations governing historic and archaeological sites."

Flood Zone

Contrary to the information provided on the site plan submittal, the location of the proposed building is within Zone AE, a Special Flood Hazard Area, according to FEMA Flood Insurance Rate Map (FIRM) Community Panel Number 12035C0127E effective June 6, 2018. Construction within Zone AE on this parcel will be required to have its finished floor elevation (FFE) a minimum of one foot above the base flood elevation (BFE) established at the proposed building site as 6 feet (NAVD 88). While the site plan incorrectly states that the building is outside of the Special Flood Hazard Area, the plan does depict the finished floor of the building at 8.0 feet, two feet above the base flood elevation. Based on the condition of the present building caused by standing water beneath the building, it is anticipated that the proposed building will be constructed with a stem-wall foundation on fill instead of a pier foundation. As a result of the building's required minimum elevation, an accessible ramp – provided consistent with the accessibility requirements of the Florida Building Code – will be needed to provide an accessible route of travel for handicapped patrons/employees from the nearest handicapped-accessible parking space to the main entrance of the building.

Parking

As part of the site plan's site data table, the applicant has summarized the parking requirements for the new building, applying the County's minimum required off-street parking standard to the proposed use:

"Restaurant/bar use: One (1) space for each fifty (50) square feet of gross seating area, plus one (1) space for each employee per shift." (LDC subsection 3.06.04.A.15).

According to the plan, the 5,200 square foot building will be limited to a dining area of 1,500 square feet and no more than 150 customers. Ultimately, occupancy limits will be set by the County's Fire Marshal in accordance with applicable standards. Based on the applicant's calculations, 35 parking spaces are required (and requiring two of those to be

handicapped-accessible spaces) based on the 1,500 square foot seating area and five employees per shift. As described on the plan submittal, 60 spaces (including three handicapped-accessible spaces) are provided on the Bing's Landing Park site.

As provided in the A1A Scenic corridor overlay district standards, the County may – as part of the site plan review process – “allow minimum parking requirements to be reduced by up to twenty-five (25) percent for complementary uses (weekday and evening/weekend uses), when such uses can share their available parking areas, and such parking areas are convenient to the associated uses.” (LDC subsection 3.06.11.F.1). While Captain's BBQ operates on a full-day service schedule, including breakfast several days a week, the applicability of “after dark” parking to accommodate dinner traffic when the Park is otherwise closed allows for some flexibility in the administration of the minimum parking requirements to this use.

Signage

While specific sign plans have not been provided, the submitted plans indicate that the existing monument sign will remain in its location South of the exit driveway on North Oceanshore Boulevard: no other monument signage is depicted. As for wall signage, three signs – one at the South (front) side, one to the right (East) side, and one to the rear (North) side – are depicted on the proposed building elevations, with each sign having a scaled dimension of 6 feet by 6 feet and an area of 36 square feet.

Tree Protection

As described in the site plan's data table and depicted on the plan submittal, 71 inches of trees are intended to be removed through this request. It is unclear specifically which trees will be removed, with a 12-inch Oak located within the center of the proposed building – likely the largest hardwood tree intended for removal – and a 22-inch Oak nearby to the East in an area on the plan labeled as “Proposed smoker, firewood & buried propane tank area.” Multiple palms are also located within the footprint of the proposed structure; however, pines and palms are specifically excluded from the County's Index Tree Removal and Protection requirements.

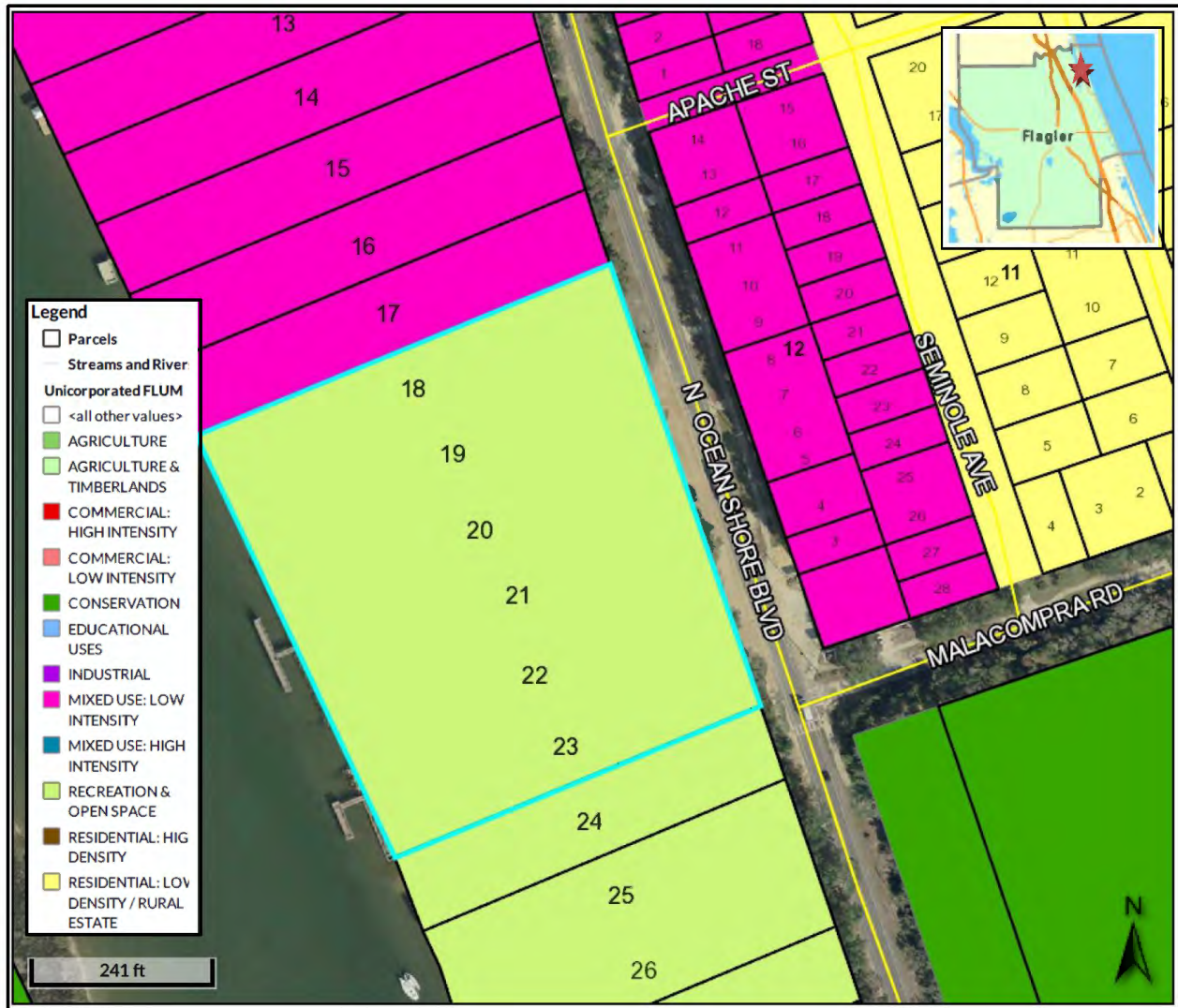
Wetlands

As depicted on the National Wetlands Inventory Map (provided below), the project site is not within an identified or presumed wetland.

Utilities

As is established within the A1A Scenic corridor overlay district, all utility service drops are to be installed underground and in a manner which protects index trees (LDC subsection 3.06.11.G).

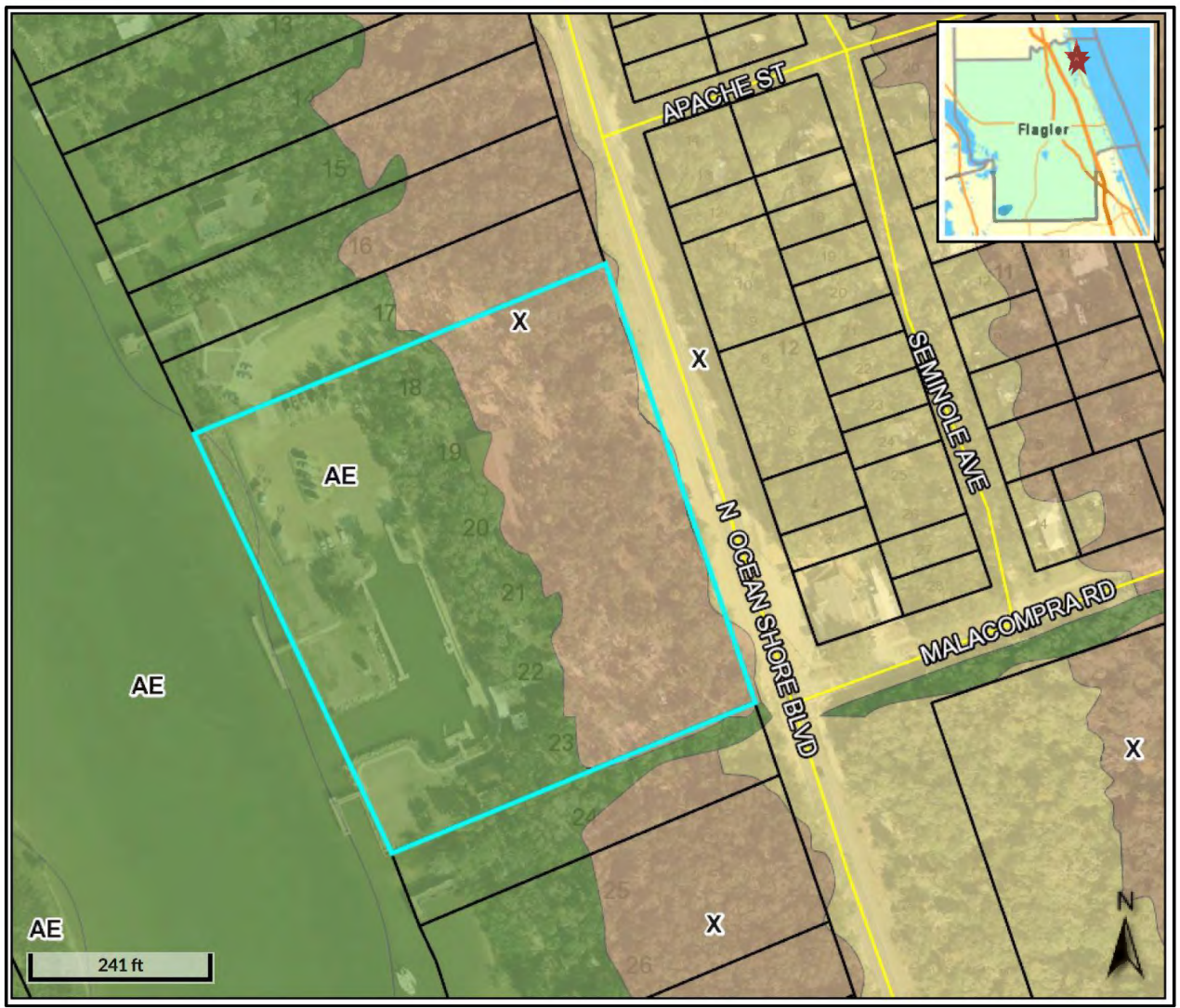
Future Land Use Map



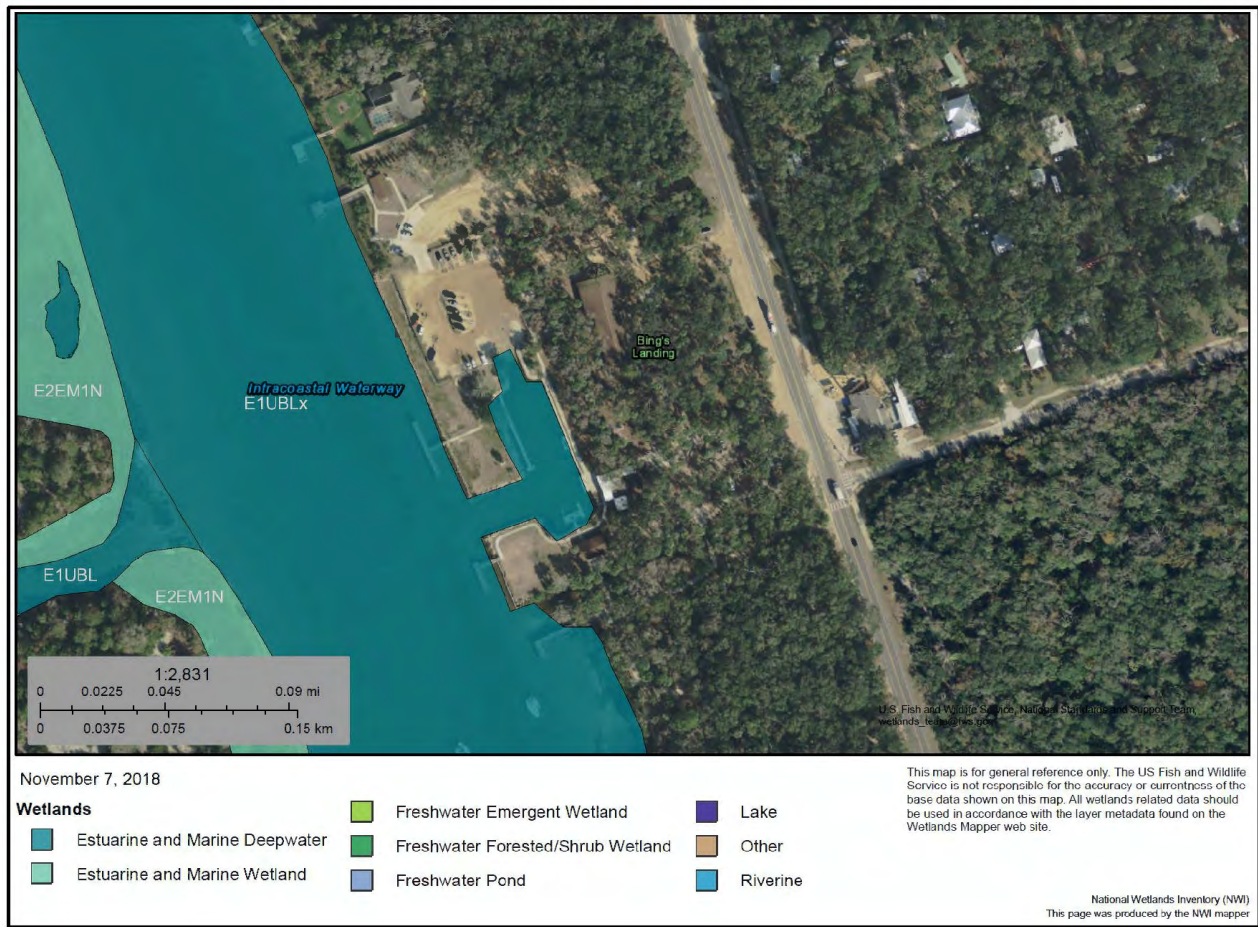
Zoning Map

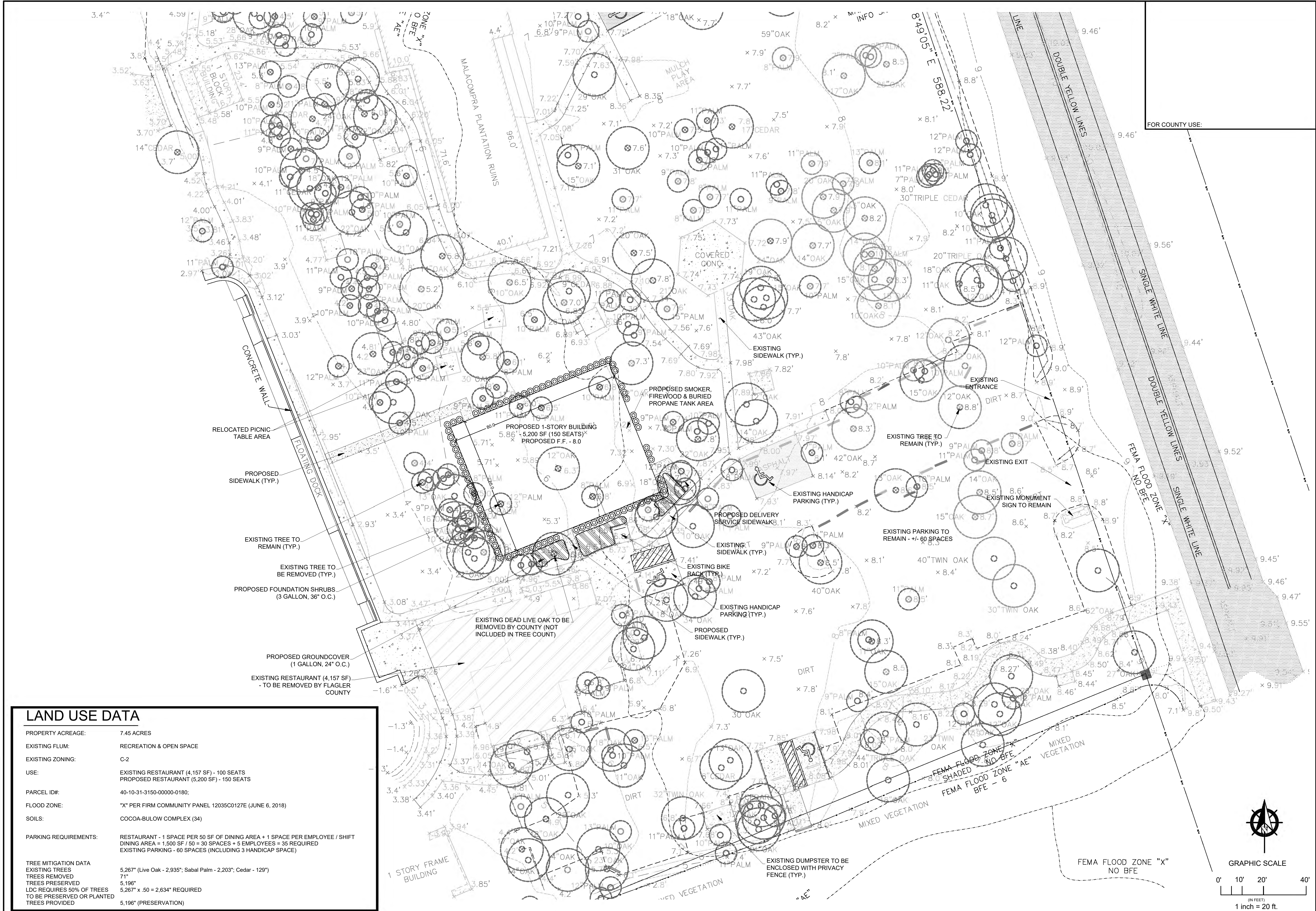


Flood Zone



National Wetlands Inventory Wetlands Mapper





LAND USE DATA

PROPERTY ACREAGE:	7.45 ACRES
EXISTING FLUM:	RECREATION & OPEN SPACE
EXISTING ZONING:	C-2
USE:	EXISTING RESTAURANT (4,157 SF) - 100 SEATS PROPOSED RESTAURANT (5,200 SF) - 150 SEATS
PARCEL ID#:	40-10-31-3150-00000-0180;
FLOOD ZONE:	"X" PER FIRM COMMUNITY PANEL 12035C0127E (JUNE 6, 2018)
SOILS:	COCOA-BULOW COMPLEX (34)
PARKING REQUIREMENTS:	RESTAURANT - 1 SPACE PER 50 SF OF DINING AREA + 1 SPACE PER EMPLOYEE / SHIFT DINING AREA = 1,500 SF / 50 = 30 SPACES + 5 EMPLOYEES = 35 REQUIRED EXISTING PARKING - 60 SPACES (INCLUDING 3 HANDICAP SPACE)
TREE MITIGATION DATA	
EXISTING TREES	5,267" (Live Oak - 2,935"; Sabal Palm - 2,203"; Cedar - 129")
TREES REMOVED	71"
TREES PRESERVED	5,196"
LDC REQUIRES 50% OF TREES TO BE PRESERVED OR PLANTED TREES PROVIDED	5,267" x .50 = 2,634" REQUIRED 5,196" (PRESERVATION)

Date: 10-23-18
Scale: 1" = 20'
Drawn: MB
Checked By: MB
Revisions:

Michael Beebe
Florida L&P 000927

CONCEPTUAL
SITE PLAN

BEEBE & ASSOCIATES, INC.
Golf Course Design, Renovation, Landscape Architecture & Consulting
250 Palm Coast Parkway NE, Suite #807, Palm Beach, Florida 33417-8225
Phone: (386) 831-1202 Fax: (386) 446-5306 Email: michael@beebesassociates.com

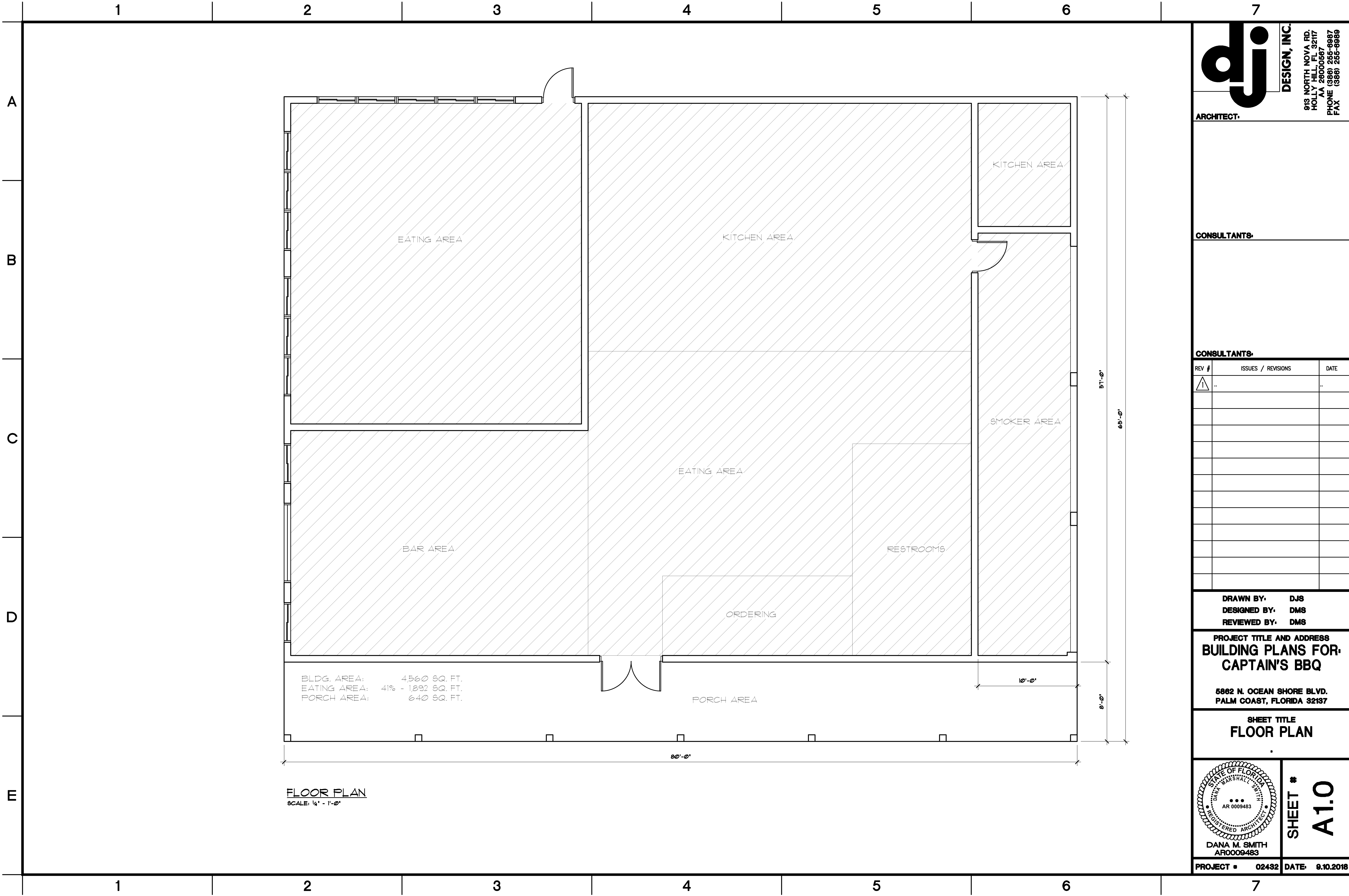
BINGS LANDING
CAPTAIN'S BARBECUE

FLAGLER COUNTY, FLORIDA



SP1

Sheet 1





APPLICATION FOR SITE DEVELOPMENT PLAN 5 ACRES OR LARGER

FLAGLER COUNTY, FLORIDA
1789 E. Moody Blvd, Suite 105
Bunnell, FL 32110
Telephone: (386) 313-4009 Fax: (386) 313-4109

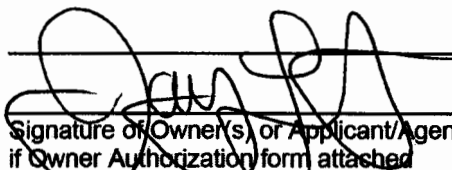
Application/Project #: 3156 / 2018090035

PROPERTY OWNER(S)	Name(s): 1769 E. Moody Blvd., Bldg. 2, Suite 302	+
	Mailing Address: 1769 E. Moody Blvd., Bldg. 2, Suite 302	+
	City: Bunnell State: Florida Zip: 32110	+
	Telephone Number (386) 313-4001 Fax Number (386) 313-4104	+

APPLICANT - AGENT	Name(s): Captain's Bait, Tackle & BBQ, LLC C/O Jay W. Livingston, Esq., Livingston & Sword PA	+
	Mailing Address: 393 Palm Coast Parkway SW #1	+
	City: Palm Coast State: Florida Zip: 32137	+
	Telephone Number (386) 439-2945 Fax Number (866) 896-5573	+
	Email Address jay.livingston314@gmail.com	+

SUBJECT PROPERTY	SITE LOCATION (street address):	5862 N. Ocean Shore Blvd., Palm Coast, Florida 32137	+
	LEGAL DESCRIPTION: (briefly describe, do not use "see attached")	Jose Park Sub - Lots 18 thru 23	+
	Parcel # (tax ID #):	40-10-31-3150-00000-0180	+
	Parcel Size:	Area impacted by new site plan 2 acres	+
	Current Zoning Classification:	C-2	+
	Current Future Land Use Designation	Recreation & Open Space	+
	Subject to A1A Scenic Corridor IDO?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	

PROJECT DATA: Replacement of existing building at Bings Landing where Captain's Bait, Tackle & BBQ is located with new building

Signature of Owner(s) or Applicant/Agent if Owner Authorization form attached:  Date: 9/24/2018

****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. 01/06

LIVINGSTON & SWORD, P.A.

Attorneys At Law

September 24, 2018

Gina Lemon
Flagler County
Planning Services
1769 E. Moody Blvd., Building 2, Suite 105
Bunnell, FL 32110

Subject: Captain's BBQ Site Plan Application Greater than 5 Acres

Dear Ms. Lemon:

Please find enclosed 10 copies of the proposed site plan for the new building along with an application for Site Plan Application Greater than 5 Acres, which Adam Mengel advised we use for this matter. A list of all the enclosures are below. I did not include an owners' authorization because Flagler County is the owner of Bings Landing as shown in the enclosed Warranty Deed.

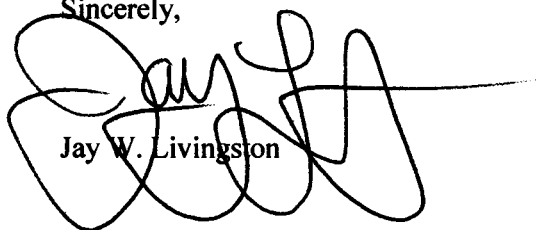
Included with this resubmittal are the following:

1. Application for Site Development Plan 5 Acres or Larger
2. Area Calculation Map showing the portion of the park affected by the site plan (2 acres)
3. Ten (10) 24" x 36" copies of the conceptual site plan.
4. One (1) 11" x 17" copy of the conceptual site plan.
5. One (1) copy of the County's Warranty Deed.
6. One (1) thumb drive containing copies of the above.

The application fee will be hand delivered to you before the close of business on Wednesday, September 26, 2018.

Please contact me if you have any questions, comments or require additional information.

Sincerely,



Jay W. Livingston

Enclosures

393 Palm Coast Parkway SW #1
Palm Coast, Florida 32137
T 386.439.2945
F 866.896.5573
jay.livingston314@gmail.com

MAP AREA CALCULATOR

5862 N Oceanshore Blvd Palm Coast FL 32137

Search

Zoom to Area

Clear Last Point

Clear All

Area: 8102 Meters² | 87207 Feet² | 2.00 Acres | 0.003 Miles² | 0.008 Km²

Perimeter: 362 Meters | 1189 Feet | 0.225 Miles | 0.362 Km

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(https://www.calcmaps.com/policy-privacy/#cookies)



<https://www.calcmaps.com/map-area/?&points=%5B%5B29.615453963627612%2C-81.20415650206543%5D%2C%5B29.615625351495662%2C->

Note: Zoom in, or enter the address of your target start point. Then click on your start point on the map, followed by all the subsequent points along the outside edge of the shape you want to calculate the area of. As you add points the area will be updated below and converted into several measurements.

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6451

WARRANTY DEED

THIS INDENTURE, MADE THIS 4th DAY OF October, 1989 A.D.,

BETWEEN Charles Yant, joined by his wife, and Dolores Yant, as to a one-half interest and John Hesseldenz, a single man, as to a one-half interest

OF THE COUNTY OF Flagler, STATE OF FL, GRANTORS,
AND Flagler County Board of County Commissioners

GRANTEES ID [REDACTED]
WHOSE ADDRESS IS:
P.O. Box 787, Bunnell, FL 32110
OF THE COUNTY OF Flagler, STATE OF FL, GRANTEES.

WITNESSETH THAT THE GRANTORS, FOR AND IN CONSIDERATION OF THE SUM OF \$10.00 AND OTHER GOOD AND VALUABLE CONSIDERATION TO GRANTORS IN HAND PAID BY GRANTEES, THE RECEIPT WHEREOF IS HEREBY ACKNOWLEDGED, HAVE GRANTED, BARGAINED AND SOLD TO THE SAID GRANTEES AND GRANTEES HEIRS AND ASSIGNS FOREVER, THE FOLLOWING DESCRIBED LAND, SITUATE, LYING AND BEING IN THE COUNTY OF Flagler, STATE OF FLORIDA TO WIT:

Tracts 18, 19, 20, 21, 22 AND 23, Jose Park, Unit NO. 1, according to the plat of said subdivision on file in the office of the Clerk of the Circuit Court of Flagler County, Florida in Plat Book 3, Page 29. The above-described property located in Section 40, Township 10 South, Range 31 East.

TAX PARCEL ID. #40-10-31-3150-00000-0180/0200/0230

SUBJECT TO THE FOLLOWING: Taxes for the year 1989 and subsequent years. ~~Restrictions, Covenants, Easements, Dedications, Reservations, Resolutions and Conditions of record, if any.~~ Balances due on utility assessments, if any.

GRANTOR WARRANTS THAT THIS IS NOT HOMESTEAD PROPERTY.

AND THE GRANTORS DO HEREBY FULLY WARRANT THE TITLE TO SAID LAND AND WILL DEFEND THE SAME AGAINST LAWFUL CLAIMS OF ALL PERSONS WHOMSOEVER.

IN WITNESS WHEREOF, THE GRANTORS HAVE HEREUNTO SET THEIR HAND AND SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN. SIGNED, SEALED AND DELIVERED IN OUR PRESENCE:

Charles Yant
(WITNESS) Dolores Yant
(WITNESS) John Hesseldenz

STATE OF Florida
COUNTY OF Flagler

I HEREBY CERTIFY THAT ON THIS DAY BEFORE ME, AN OFFICER DULY QUALIFIED TO TAKE ACKNOWLEDGEMENTS, PERSONALLY APPEARED Charles Yant, joined by his wife, and Dolores Yant, as to a one-half interest

TO ME KNOWN TO BE THE PERSON(S) DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND THEY ACKNOWLEDGED BEFORE ME THAT THEY EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL IN THE COUNTY AND STATE LAST AFORESAID THIS 4 DAY OF October, 1989.

THIS DOCUMENT PREPARED BY:
FLAGLER COUNTY ABSTRACT COMPANY
307 EAST MOODY BLVD.
BUNNELL, FL. 32110

(SEAL) NOTARY PUBLIC
MY COMMISSION EXPIRES:

Notary Public, State of Florida
My Commission Expires June 29, 1993
Bonded Thru Tary Fain Insurance Inc.



STATE OF FLORIDA
DOCUMENTARY
DEPT. OF REVENUE
OCT-4-89
RB 11070

NO. 014850
FILED & RECORDED
O.R. BOOK 408 PAGE 596

STATE OF FLORIDA
DOCUMENTARY
DEPT. OF REVENUE
OCT-4-89
RB 11070
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OCT-4-89
RB 11070
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FLAGLER COUNTY

FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: OCTOBER 17, 2018

**APP #3156 SDP PU - CAPTAIN'S BBQ - REPLACE EXISTING
BAIT/TACKLE/BBQ BLDG WITH NEW**

**APPLICANT: CAPTAIN'S BAIT, TACKLE & BBQ, LLC
OWNER: FLAGLER, COUNTY BOARD OF COUNTY COMMISSIONERS**

Distribution date: Friday, October 12, 2018

Project #: 2018090035

Application #: 3156

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

At least 2 accessible parking spaces will be required per section 208.2 Florida Building Code - Accessibility. Please clarify the total number of parking spaces to be utilized.

REVIEWING DEPARTMENT: E-911 STAFF

No comments at this time.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

Captains Bait Tackle & BBQ
Comments 10/10/18

1. Provide a demo plan.
2. Provide a proposed site development plan that depicts any existing features that will be incorporated into the plan as well as all of the proposed improvements.
3. Identify the building entrances and which will be ADA compliant.
4. Confirm that the City of Palm Coast has been notified that these changes are going to be made.
5. Will you be connecting to the existing septic system or is a new one planned?
6. Define all of the existing and proposed parking spaces on a table.
7. All Handicap spaces that are required for the building will need to be concrete and have accessibility to the building.
8. Specifically define the building and what the square footage called out on the plan is defining.
9. Provide the square footage of the existing building.
10. Provide the proposed finished floor elevation for the building.
11. Provide a grading and dimensioning plan.
12. What will be the proposed pervious surface in the parking area.

Further comments may be provided upon the receipt of revised plans.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time.

REVIEWING DEPARTMENT: FIRE INSPECTOR

No comments at this time.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The site plan submittal should include as part of its data table: current and proposed impervious areas (as best these can be calculated); the square footage of the current building and the square footage of the proposed building, including the square footage of the present seating area and proposed seating area; the number of current and the number of proposed seats; and the number of current parking spaces (including those parking spaces at the North end of the Park) and the number of proposed parking spaces.
2. Provide square footage of proposed porch.
3. Label dimensions of building.
4. Provide dimensions of parking spaces (can be depicted on one space as typical).
5. Handicapped-accessible parking spaces should be located along the closest accessible route to the building entrance.
6. Are parking spaces intended to be pervious? Label proposed surface treatment for parking.
7. Verify the aisle width of the new 16 space parking area South of the proposed building: minimum aisle width should be 24 feet, but this width appears to scale at 20 feet.
8. Identify the solid line to the right of the South entrance of the proposed building; is this a sign? If so, provide dimensions and maximum sign copy area.
9. Depending on the finished floor elevation of the proposed building (requiring elevation of the finished floor to be a minimum of one foot above the base flood elevation), a ramp meeting the requirements of Section 405 of the 2017 Florida Building Code - Accessibility, Sixth Edition, may be needed.
10. Proposed signs should be depicted on the site plan, along with proposed refuse areas.
11. An index tree data table should be provided for index trees within the development area, identifying the current and proposed tree tabulation by type and diameter of each tree and the proposed post-construction tabulation of index trees to be removed. If any trees are to be added, provide the number and type in a data table, along with depicting the planting location on the site plan.
12. Site plan requires review and comment by Scenic A1A PRIDE Committee.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

- 1- Existing septic system currently at maximum capacity. If seating capacity increases, a new septic system meeting current 64E-6 FAC code requirements will be required.
- 2- An Annual Operating Permit will continue to be required due to the generation of commercial wastewater.

LIVINGSTON & SWORD, P.A.

Attorneys At Law

October 24, 2018

Adam Mengel, Planning Director
Flagler County
1769 E. Moody Blvd., Bldg. 2
Bunnell, Florida 32110

Subject: RESUBMITTAL/RESPONSES TO TRC COMMENTS
Project #: 2018090035
APP #3156 SDP PU – Captain's BBQ – Replace Existing Bait/Tackle/BBQ
Bldg. with New
Applicant: Captain's Bait, Tackle & BBQ, LLC
Owner: Flagler, County Board of County Commissioners

Dear Mr. Mengel:

In addition to the fifteen (15) copies of the revised conceptual site development plan submitted for the Planning Board's consideration, please find below the TRC comments from the October 17, 2018 restated along with the applicant's responses.

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

At least 2 accessible parking spaces will be required per section 208.2 Florida Building Code – Accessibility. Please clarify the total number of parking spaces to be utilized.

RESPONSE: The County is responsible for any changes or expansion to the parking lot. The applicant is solely responsible for the design, permitting and construction of the new building shown on the proposed plan. Pursuant to the applicable code the seating area in the restaurant will require 35 parking spaces, including 2 handicap accessible spaces as shown on the revised plan.

REVIEWING DEPARTMENT: E-911 STAFF

No comments at this time.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

Captains Bait Tackle & BBQ

393 Palm Coast Parkway SW #1
Palm Coast, Florida 32137
T 386.439.2945
F 866.896.5573
jay.livingston314@gmail.com

Comments 10/10/18

1. Provide a demo plan.

RESPONSE: The County is responsible for the demolition of the existing building. Therefore, no demo plan will be provided by the applicant.

2. Provide a proposed site development plan that depicts any existing features that will be incorporated into the plan as well as all of the proposed improvements.

RESPONSE: The revised site development plan labels proposed improvements as well as existing features that will be part of the relocated public use into the new building. The proposed parking has been removed from the plan to avoid confusion. There is adequate existing parking to meet the code requirement for the new restaurant.

3. Identify the building entrances and which will be ADA compliant.

RESPONSE: The main entrance to the restaurant will be ADA compliant.

4. Confirm that the City of Palm Coast has been notified that these changes are going to be made.

RESPONSE: The County is the customer for City utilities at Bings Landing and will notify the City of the proposed changes once they are approved by the BOCC as part of the revisions to the lease agreement.

5. Will you be connecting to the existing septic system or is a new one planned?

RESPONSE: A new septic system for Bings Landing will be installed by the County. Wastewater and sewage from the new building will discharge into this new septic system.

6. Define all of the existing and proposed parking spaces on a table.

RESPONSE: The changes to and expansion of the parking area is being handled by the County not the applicant. Any questions regarding the existing and proposed parking spaces should be directed to appropriate staff. Proposed parking has been removed since there is adequate existing parking to handle the proposed restaurant.

7. All Handicap spaces that are required for the building will need to be concrete and have accessibility to the building.

RESPONSE: The County is responsible for the parking area, which will contain the required number of handicap spaces for the new building as well as the park as a whole.

8. Specifically define the building and what the square footage called out on the plan is defining.

RESPONSE: The revised conceptual site development plan shows the proposed use and total square footage of the new building.

9. Provide the square footage of the existing building.

RESPONSE: The square footage of the existing building is 4,157 sq.ft.

10. Provide the proposed finished floor elevation of the building.

RESPONSE: The finished floor elevation of the new building is noted on the revised conceptual site development plan.

11. Provide a grading and dimensioning plan.

RESPONSE: The applicant is responsible for the design, permitting and construction for the new building but will be working with the County for the site preparation and grading that will be required. Grading and dimension plans to be provided by County for all site work including parking, utilities, sidewalks, etc. Architectural plans will detail the building dimensions and specific building details.

12. What will be the proposed pervious surface of the parking area.

RESPONSE: The County is responsible for the parking area. The surface will be consistent with the existing parking area surface. See responses #2 & #6 above.

Further comments may be provided upon the receipt of revised plans. **NOTED**

REVIEWING DEPARTMENT: COUNTY ATTORNEY

No comments at this time.

REVIEWING DEPARTMENT: FIRE INSPECTOR

No comments at this time.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The site plan submittal should include as part of its data table: current and proposed impervious areas (as best these can be calculated); the square footage of the current building and the square footage of the proposed building, including the square footage of the present seating area and proposed seating area; the number of current and the number of proposed seats; and the number of current parking spaces (including those parking spaces at the North end of the Park) and the number of proposed parking spaces.

RESPONSE: A data table has been added to the conceptual site plan containing the information requested. The data table specifies how many parking spaces will be required and the number of existing parking spaces. Data regarding proposed parking is not included. The County is responsible for changes and expansion of the parking area and there is adequate existing parking to handle the new restaurant.

2. Provide square footage of proposed porch.

RESPONSE: The estimated square footage of the proposed porch is 640 sq.ft.

3. Label dimensions of building.

RESPONSE: The dimensions of the new building have been added to the proposed site plan.

4. Provide dimensions of parking spaces (can be depicted on one space as typical).

RESPONSE: The County is responsible for the changes and expansion of the proposed parking area. No proposed parking is being shown since there is adequate existing parking to handle the new restaurant.

5. Handicapped-accessible parking spaces should be located along the closest accessible route to the building entrance.

RESPONSE: The County is responsible for the changes and expansion of the proposed parking area. The parking area will be in compliance with all requirements applicable to handicapped-accessible parking spaces.

6. Are parking spaces intended to be pervious? Label proposed surface treatment for parking.

RESPONSE: The County is responsible for the parking area. Please check with appropriate staff regarding the proposed surface.

7. Verify the aisle width of new 16 space parking area South of the proposed building; minimum aisle width should be 24 feet, but this width appears to scale to 20 feet.

RESPONSE: The County is responsible for the parking area. Please check with appropriate staff regarding the aisle width. No proposed parking is being shown since there is adequate existing parking to handle the new restaurant.

8. Identify the solid line to the right of the South entrance of the proposed building; is this a sign? If so, provide dimensions and maximum sign copy area.

RESPONSE: The requested information has been added to the proposed site plan.

9. Depending on the finished floor elevation of the proposed building (requiring elevation of the finished floor to be a minimum of one foot above the base flood elevation), a ramp meeting the requirements of Section 405 of the 2017 Florida Building Code – Accessibility, Sixth Edition, may be needed.

RESPONSE: We have shown the FF elevation at 8.0 on the revised conceptual site plan.

10. Proposed signs should be depicted on the site plan, along with proposed refuse areas.

RESPONSE: There are not any new freestanding signs being proposed. The existing monument sign will remain as is. There is an existing dumpster shown on the plans. We have added a call-out for a fence to screen this dumpster. We aren't showing any new dumpsters.

11. An index tree data table should be provided for index trees within the development area, identifying the current and proposed tree tabulation by type and diameter of each tree and the

proposed post-construction tabulation of index trees to be removed. If any trees are to be added, provide the number and type in a data table, along with depicting the planting location on the site plan.

RESPONSE: We have added a breakdown of the existing trees by type and inches (5,267"), total preserved inches (5,196") and removed inches (7 trees totaling 71"). This exceeds the LDC requirements for tree mitigation (2,634" required) by a large amount. No new trees will be planted.

12. Site plan requires review and comment by Scenic A1A PRIDE Committee.

RESPONSE: The applicant will be presenting the proposed site plan to the Scenic A1A PRIDE Committee at its meeting scheduled for October 26, 2018.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

1- Existing septic system currently at maximum capacity. If seating capacity increases, a new septic system meeting current 64E-6 FAC code requirements will be required.

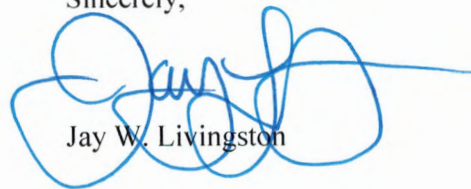
RESPONSE: A new septic system will be installed for Bings Landing, including the new building for the restaurant.

2- An Annual Operating Permit will continue to be required due to the generation of commercial wastewater.

RESPONSE: Noted.

Please contact me if you have any questions, comments or require additional information.

Sincerely,



Jay W. Livingston

CC: Client
Michael Beebe
David Swartz



Promoting Rational Integration of Development & Environment

November 4, 2018

Mr Adam Mengel
Planning & Zoning Director
1769 E Moody Blvd, Bldg 2
Bunnell, FL 32110

re: Relocation of Captain's BBQ at Bings Landing (Project 2018090035)

Dear Mr Mengel,

This proposal was reviewed at the October 26, 2018 meeting of Scenic A1A PRIDE. Mr Jay Livingston explained that Captain's BBQ building, which is leased from Flagler County by Mr Mike Goodman, is "unsalvageable" and needs to be replaced as soon as possible. A new, slightly larger building with a higher roof elevation was shown as the proposed replacement, located between the current restaurant and the archeological pavilion. The proposed new location will allow Captain's BBQ to continue operating while the new facility is being erected.

The proposed new building footprint increases from 4,157 to 5,200 SF with a seating increase from 100 to 150. However, since the stated gross seating area remains at 1897 SF the calculated (50sf/space) minimum parking space requirement with five employees remains unchanged at 43.

After a lengthy discussion, ***Scenic A1A PRIDE board voted 7-2 in favor of the proposal*** (G. Hansen and M. Goodman abstaining) with the provision that there will be ***no net loss of green space***. Also included in the motion was the provision that ***any parking changes be reviewed*** by Scenic A1A PRIDE before implementation. During the meeting, it was clear that Scenic A1A PRIDE opposed any increase in building size or increased parking requirements as compared to the existing business. There was a strong recommendation that the footprint of the demolished building be converted to useable green space.

Sincerely,

Dennis Clark, Chair
SCENIC A1A PRIDE

Cc: Mike Goodman, Jay Livingston, Craig Coffey

Addendum - Captain's BBQ Relocation Proposal Summary:

As described during the meeting and shown in plan documents provided to Flagler County:

- Construct a new 5,200 SF building in the center of the park. The current building is 4,157 SF, plus about 1,000 SF of outside smoker area.
- Demolish the existing Captain's BBQ building due to recurring problem with rotting floors.
- Mike Goodman will pay for the new building (up to \$1M) which will be donated to the County.
- Restaurant seating increases from 100 to 150. All seating is enclosed, with windows that can be opened in good weather. The floor plan includes a bar area.
- The 1892 SF eating area requires 38 parking spaces plus 5 for employees = 43 total. It is nearly the same gross seating area as the current restaurant, so parking requirements do not change. As stated, "There is adequate existing parking to handle the proposed restaurant."
- Finished floor elevation proposed is eight feet. The height of building may be similar to the archeological pavilion. (It measures approximately 31 feet in the architectural drawings). Building colors will be in accordance with Flagler County park standards.
- Trees to be impacted (restaurant only): One Live Oak, one dead Live Oak, and 5 Palms. The previous plan showed removal of 25 trees, including 8 for parking. The County has a plan for relocating impacted Palm trees.
- Archeological techniques will be employed to save any artifacts discovered during construction.
- A new lease addendum, along with the site plan, will be needed to be approved by the Board of County Commissioners, probably on Nov 19.
- Flagler County is responsible for demolition, additional parking, and installing a new septic, any of which may impact existing trees. Those plans were not reviewed.
- Craig Coffey showed interest in converting the septic system to an aerobic system for improved environmental considerations.
- Eight Oak trees are located within ten feet of the building. (To protect them, construction should employ a master arborist.)
- Per Craig Coffey, "Construction shouldn't impact the parking that's in the park now because the building will occur outside that footprint." The construction time period is not known.
- A fence will be added to screen the two dumpsters.
- No additional signage will be needed.
- Flagler County's costs for demolition, new septic system, new sidewalks, and parking changes were not discussed.



Promoting Rational Integration of Development & Environment

December 3, 2018

Flagler County Board of Commissioners
1769 E Moody Blvd, Bldg 2
Bunnell, FL 32110

re: Relocation of Captain's BBQ at Bings Landing (Project 2018090035)

Dear Commissioners,

On November 30, 2018 the Scenic A1A PRIDE board voted to reconsider the motion from the October 26 meeting where the board had voted 7-2 "in favor of the Captain's BBQ restaurant relocation proposal provided there will be no net loss of green space, no expanded building, and any parking changes be reviewed by Scenic A1A PRIDE before implementation." The terms of the new lease were not available until November 16.

The original motion was then brought to the floor and lost with a 1-8 vote (Mike Goodman abstaining). No new motion was brought to the floor on this topic.

Sincerely,

A handwritten signature in cursive script that reads "Dennis Clark".

Dennis Clark, Chair
Scenic A1A PRIDE

Cc: Adam Mengel, Craig Coffey, Albert Hadeed

FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD
CONSENT / AGENDA ITEM #7k

SUBJECT: Request for Approval of an Amended and Restated Lease with Captain's Bait, Tackle & BBQ, LLC, at Bing's Landing.

DATE OF MEETING: November 19, 2018

OVERVIEW/SUMMARY: The request is for approval of a lease modification with Captain's Bait, Tackle & BBQ, Inc., for the construction of a new 5,200 sq ft restaurant building that will be replace an existing substandard facility for Captain's BBQ, the County's concessionaire tenant at Bing's Landing. The new building will be constructed by the tenant at a cost of approximately \$1,000,000, but will be owned by Flagler County. The existing facility is older and was poorly constructed. It has severe structural issues that have plagued the facility for the five years necessitating various emergency and short-term repairs. While these repairs were completed to meet the terms of the lease and maintain operations at the restaurant, the present condition of the existing building – initially built in 1990 – requires more extensive permanent repairs that are not financially or practically feasible. Essentially this leaves building a replacement facility as the only real option.

To satisfy the terms of the County's lease, the tenant has proposed construction of a new 5,200 square foot restaurant building – to be built by the tenant, at their expense –North of the existing concessionaire building. This construction would allow the existing operations to continue throughout the term of construction, with the existing building to be demolished following the completion of the new building. This construction schedule and plan would: the maintain restaurant operations at the existing building; fulfill the lease obligations of the County/landlord; continue the terms of the lease for (and payments by) the applicant/tenant; and result in no lapse in other contractual obligations of the tenant (for its suppliers) and no reduction in staffing at the restaurant due to the continuing operations.

The Planning and Development Board approved the site development plan for the new restaurant building at its meeting on November 13, 2018. While the present lease area includes outside cooking and storage, the proposed building would include these ancillary uses under roof. The location of the proposed new building would allow the applicant to continue operations while the new restaurant building is constructed at the applicant's expense (and would allow the County as the landlord to satisfy its terms of the existing lease). Modifications to park infrastructure, like utility services, water and septic systems, parking and signage, would be the responsibility of the County, along with the demolition of the existing structure once work on the new building is complete.

The lease acknowledges the obligations of both the landlord and the tenant, with the lease term extending to August 31, 2026, with the lessee able to extend the lease for three additional five years periods at their Lessee's option. One additional term 5 year term is permitted through the mutual consent of the parties. In total, if reconstructed in 2019, the amended and restate lease would provide a term of approximately 21 years at the Lessee's option with the additional 5 year through mutual consent. The lease additionally recognizes the significant investment made by the tenant, initially setting the rent at

\$4,000 per month, but then reducing the rent by \$3,000 per month to recognize the large investment proposed. However, the overall the monthly rent would still increase from the current monthly rent of \$740 to \$1,000 per month. The new increased rate would be locked in for the initial five years of the lease with an automatic annual 3% increase thereafter.

Other notable changes to the lease include an increase in seating up to 150 seats and the potential ability of the applicant to serve alcohol above beer and wine. Additionally, the County would no longer be maintaining the building and potentially sub-metering water usage. Various construction particulars were added such finish, roof type, stem wall construction, screening, shrubs, and signage. The applicant was required to add 25 trees to the Park to offset various tree impacts. County obligations include the septic system, assisting with the oversight of construction, creating up to 30 new Park parking spaces (40+ County staff goal), creating up to 4 boat parking spaces on the west side of the basin. Bait sales are still required and may be sublet to another vendor upon approval of the County.

As background, on June 6, 2011, sealed request for proposals were publicly advertised seeking qualified individuals, businesses or companies to submit their qualifications to run concession operations with Bait & Tackle Shop at Bing's Landing on State Road A1A in the Hammock. Based on the results of the proposals, on June 6, 2011 the Board of County Commissioners initially approved a lease agreement with Captain's BBQ. On April 20, 2015, the Board amended the original five year lease agreement – beginning September 1, 2011 and ending on August 31, 2016 – with Captain's Bait, Tackle and BBQ, LLC, by extending the lease for an additional five year term at the tenant's option with a County-optional additional five year term so that the tenant could recoup over \$300,000 in tenant improvements made to the concessionaire building, including: complete build-out of the interior space; installation of a grease trap; installation of a new HVAC system; adding an enclosed porch; expanding the food preparation area; adding a hood exhaust system; adding an enclosed cooking area; and outside site improvements including fencing, landscaping, handicapped-accessible parking, and sidewalks.

Flagler County has two other restaurant facilities that are owned by the County and leased to tenants, which are: Hijackers Restaurant, located at the Airport, Bull Creek Restaurant, located at Dead Lake, etc.

RECOMMENDATION: Request the Board approve the Amended and Restated Captain's Bait, Tackle & BBQ Lease at Bings Landing.

ATTACHMENTS:

1. Amended and Restated Lease Agreement

Craig M. Coffey, County Administrator

Date

11/14/2018 Requested by Planning Director, Adam Mengel

11/15/2018 Electronically Approved by Deputy County Administrator, Sally Sherman