

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING / AGENDA ITEM #9d**

SUBJECT: QUASI-JUDICIAL – Application #3331 – Request to Rezone from C-2 (General Commercial and Shopping Center) and I (Industrial) Districts to R-3b (Multifamily Residential) District located on the South side of State Road 100 East and North of the Flagler Executive Airport; Parcel Number: 08-12-31-0650-000B0-0070. 28.32+/- acres, 5615 State Highway 100 East. Owner: Flagler Pines Properties, LLC/Applicant: Jay W. Livingston, Esquire (Project # 2022090031).

DATE OF MEETING: May 15, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. This request is for rezoning of 28.32+/- acres – from the C-2 (General Commercial and Shopping Center) and I (Industrial) Districts to R-3b (Multifamily Residential) District – for development of a 255-unit apartment complex. The subject project area is 28.32+/- acres in size and is located at 5615 State Highway 100 East:



On September 27, 2022, the applicant submitted an application to rezone the subject property to R-3b (Multifamily Residential) District to establish a 255-unit apartment complex.

Development of the subject parcel as multifamily residential requires a Future Land Use Map amendment from Commercial: High Intensity and Industrial to Residential High Density. Based on 255-units on 28.32 acres, the resulting density equals 9 units per acre. The pending rezoning request – from C-2 (General Commercial and Shopping Center) and I (Industrial) Districts to R-3b (Multifamily Residential) District – will ultimately be conditioned upon the companion Future Land Use Map amendment becoming effective for the subject parcel.

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This application was reviewed by the Technical Review Committee (TRC) at its October 19, 2022 and March 15, 2023 regular meetings. The applicant has addressed the TRC comments; however, there were outstanding comments from the Airport Director related to the compatibility of the proposed multifamily project due to its proximity to the Flagler Executive Airport. The applicant has had a noise study completed showing that noise levels on the subject parcel are not at objectionable levels. The applicant respectfully disagrees that the proposed multifamily use next to the Airport is an incompatible use.

This request was reviewed by the Planning and Development Board at its April 11, 2023 regular meeting. The Board recommended denial, finding that the existing Future Land Use designation and zoning was more appropriate. Draft minutes from the Planning and Development Board meeting are attached.

As was mentioned at the Planning Board meeting, the extent of the average annual day noise estimation provided through the Day-Night Average Sound Level (DNL) metric creates anticipated noise contours emanating outward from the runways at the Airport, with residential land uses deemed to be incompatible at noise levels of 65 DNL or greater. While a 14 C.F.R. Part 150 noise study has not been completed at the Airport (and the Part 150 noise study is not warranted at this time), planning work related to the extent of the eventual runways and anticipated aircraft mix and flight traffic level indicates that the 65 DNL or greater noise contours will fall within the Airport property boundary or onto adjacent parcels that would be unaffected by aircraft-related noise. The parcel that is the subject of the rezoning request falls entirely outside of the 65 DNL contour. The Board received this information – along with the recognition that aircraft-related noise levels are subjective and do not observe identified noise contours, and ultimately resulting in citizen complaints – but did not specifically identify noise as a concern related to its recommendation to deny the rezoning request.

Public notice has been provided for this application according to Section 125.66, Florida Statutes, and Land Development Code (LDC) Section 2.07.00.

This agenda item is:

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

STRATEGIC PLAN:

Focus Area: Effective Government

- Goal 2 – Build & Maintain Relationships to Support Effective & Efficient Government
 - Objective EG 2.3: Establish compatible policies, procedures, and other means to operate across county and municipal boundaries.

Focus Area: Economic Vitality Objectives

- Goal 4 – Explore Affordable, Workforce and Attainable Housing Options
 - Objective EV 4.2: Develop a master plan for growth in collaboration with local municipalities.

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
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DEPARTMENT CONTACT: Growth Management, Adam Mengel, 386-313-4065

OPTIONS FOR THE BOARD: The Board of County Commissioners may:

Approve Application #3331, a rezoning from C-2 (General Commercial and Shopping Center) and I (Industrial) Districts to R-3b (Multifamily Residential) District for 28.32+/- acres, finding that the proposed rezoning is consistent with the Flagler County Comprehensive Plan and the Flagler County Land Development Code.

Deny Application #3331, a rezoning from C-2 (General Commercial and Shopping Center) and I (Industrial) Districts to R-3b (Multifamily Residential) District for 28.32+/- acres, finding that the proposed rezoning is not consistent with the Flagler County Comprehensive Plan and the Flagler County Land Development Code.

Continue the request to rezone on the basis that additional information is needed from staff or the applicant. Based on the presentation and the public hearing, the Board does not have sufficient information to be able to render a decision (and recommendation) on the rezoning request. Continuing the request will provide an opportunity for staff or the applicant to provide additional information.

ATTACHMENTS:

1. Technical Staff Report
2. Ordinance
3. Application and supporting documents
4. TRC comments
5. Applicant response to TRC comments
6. Planning and Development Board April 11, 2023 draft meeting minutes (in part)
7. Public notice

**APPLICATION #3331
REZONING
FLAGLER PINES PROPERTIES, LLC
TECHNICAL STAFF REPORT**

Project: Rezone from C-2 (General Commercial and Shopping Center) and I (Industrial) Districts to R-3b (Multifamily Residential) District

Application #/Project #: 3331/2022090031

Owners: Flagler Pines Properties, LLC

Applicant/Agent: Jay W. Livingston, Esquire

Parcel #: Part of 08-12-31-0650-000B0-0070

Address: 5615 State Highway 100 East

Parcel Size: 28.32+/- acres

Legal Description:

Part of Parcel #412 described in Official Records Book 601, Page 1989, Public Records of Flagler County, Florida, in Section 8, Township 12 South, Range 31 East.

Existing Zoning and Land Use Classification:

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

Land Use: Commercial High Intensity and Industrial

Future Land Use Map Classification/Zoning of Surrounding Land

North: Moody Boulevard/State Road 100/City of Palm Coast – Mixed Use/PSP (Public/Semipublic) District and COM-2 (Commercial) District;

East: Commercial High Intensity and Industrial; C-2 (General Commercial and Shopping Center) and I (Industrial) Districts

South: Flagler Executive Airport/Industrial/I (Industrial) District

West: Commercial High Intensity and Agriculture & Timberlands; C-2 (General Commercial and Shopping Center) and PUD (Planned Unit Development) Districts

Report in Brief

The applicant has proposed a rezoning to R-3b (Multifamily Residential) District to coincide with the Future Land Use Map amendment being considered under Application #3330. This rezoning to R-3b is contingent on the adoption of the Future Land Use Map amendment. A rezoning is necessary because the C-2 (General Commercial and

Shopping Center) and I (Industrial) zoning districts do not coincide with the Residential High Density Future Land Use designation requested through Application #3330.

This rezoning would change 21.80+/- acres of I (Industrial) zoning and 6.52+/- acres of C-2 (General Commercial and Shopping Center) zoning to R-3b (Multifamily residential) zoning. The R-3b zoning district requires public (or community) water and sewer facilities in order to meet the district's maximum density of nine (9) units per acre (LDC Sec. 3.03.09.02.D.2).

The subject parcel was part of a rezoning in 2008 (Application #2748, as approved through Ordinance No. 2008-36 recorded on March 18, 2009 at Official Records Book 1707, Page 1278, Public Records of Flagler County, Florida) which rezoned the total 89+/- acres jointly owned by Flagler Pines Properties, LLC, and Flagler Airport Industrial, LLC, from C-2 (General Commercial and Shopping Center) and AC (Agriculture) to PUD (Planned Unit Development). The PUD Development Agreement text was developed in concert with the City of Palm Coast staff in anticipation of a forthcoming annexation into the City due to the need for connection to City utilities. The PUD Development Agreement was to become effective upon:

- approval by the BOCC and satisfaction of the rezoning ordinance requirements;
- conveyance of the County Road [through the parcel connecting Highway 100 with the Airport] to the County (according to Subsection 5.(d).(1). Of this Development Agreement); and
- execution of this Development Agreement by all parties.

While the first and third conditions had arguably been satisfied, the second condition requiring conveyance of the County Road never occurred. In the end, the PUD expired after its three-year term.

The net effect of the PUD expiration was the reversion of the zoning back to its pre-rezoning designations of C-2 and AC. The owners opted to rezone the portion designated as Industrial Future Land Use as I (Industrial) zoning district to achieve consistency between the Future Land Use and zoning designations. In late 2021, the Board approved Ordinance No. 2021-10 (Application #3271), rezoning a 40.06+/- acre portion of parcels 08-12-31-0650-000B0-0070 (owned by Flagler Pines Properties, LLC) and 08-12-31-0650-000B0-0071 (owned by Flagler Airport Industrial, LLC) from AC (Agriculture) to I (Industrial). The major portion of Parcel No. 08-12-31-0650-000B0-0071 which was rezoned to I (Industrial) is now under development as a BJ's Wholesale Club; the major portion in Parcel No. 08-12-31-0650-000B0-0070 is the subject parcel for this rezoning request, with the subject area of the rezoning mostly designated as I (Industrial) to the south adjacent to the Airport and the remainder to the north designated as C-2 (General Commercial and Shopping Center) along the Highway 100 frontage. While the I

(Industrial) zoning district permits a range of non-residential uses, development for multifamily housing is not a permitted use. Moreover, while recent changes to Florida Statutes permit affordable housing to locate within lands zoned for commercial or industrial uses, the intended use of the subject parcel is not for affordable housing.

Standards for Review

LDC Section 3.07.05, *Rezoning - action by the Planning and Development Board and Board of County Commissioners*. The Flagler County Planning and Development Board may recommend and the Flagler County Commission may enact an ordinance amending the zoning classification of the subject parcel. The adopted Flagler County Land Development Code lacks specific standards for review of a rezoning request; however, generally a request should be consistent with the adopted Comprehensive Plan and the following suggested standards:

- A. For all rezoning requests, the requested zoning designation must be consistent with the Future Land Use designation of the parcel as depicted on the adopted Future Land Use Map and as described in the Future Land Use Element of the adopted Flagler County Comprehensive Plan.

The Future Land Use Map amendment is required to become effective before the R-3b zoning takes effect. The R-3b zoning corresponds to the Residential High Density Future Land Use and would provide for the proposed multifamily apartment development. Multifamily residential development of the subject parcel is not permitted until the Future Land Use and zoning are in place.

- B. The requested zoning designation must be consistent with the goals, objectives, and policies of the Flagler County Comprehensive Plan.

The applicant's submittal demonstrates that initial concurrency will be satisfied at the time of the impacts of development occurring. The ultimate determination of concurrency will be made at the time of final site development plan approval, in this case (because the parcel size is greater than five acres) when the site development plan is approved by the Planning and Development Board.

The development standards of the R-3b are intended to ensure overall consistency with the goals, objectives, and policies of the Comprehensive Plan. The site development plan will be required to be consistent with the dimensional requirements of the R-3b zoning district.

- C. The requested zoning designation must be compatible with the adjacent and surrounding land uses. Land uses shall include, but not be limited to permitted uses, structures, and activities allowed within the Future Land Use category and zoning

district. Compatibility shall be based on characteristics which can impact adjacent or surrounding uses including type of use, height, appearance, aesthetics, odors, noise, smoke, dust, vibration, traffic, sanitation, drainage, fire risk, environmental impacts, maintenance of public infrastructure, availability of potable water and sanitary sewer, and other necessary public services.

Area development is principally commercial in nature based on market demand and parcel frontage along Moody Boulevard/State Road 100. The proximity of this project to the Flagler Executive Airport was discussed as part of the Technical Review Committee (TRC) comments, with County staff recognizing the proposed multifamily residential development as creating potential noise conflicts due to ongoing complaints received from single-family neighborhoods adjacent to the Airport in Palm Coast. As a multifamily project, renters will be prompted to leave after lease expiration if noise levels are objectionable, as opposed to single-family ownership.

Section 333.03, Florida Statutes, requires the adoption of airport zoning regulations for development contiguous to public-use general aviation airports. The cities and the county have not adopted airport zoning regulations; however, the Airport has completed an FAA-approved noise study establishing noise contours that are wholly located within the limits of the Airport. These noise contours serve to limit uses within the contours. The subject parcel is entirely outside of the noise contour and is therefore not subject to any additional Airport-related restrictions as to use as prescribed by Florida Statute or through FAA regulations. To supplement the Airport's noise study, the applicant provided a noise study demonstrating that background noise on the subject parcel with ongoing air operations did not create noise levels that were objectionable.

The owner contends – through the applicant – that the existing I (Industrial) zoning would not develop with an industrial-type use adjacent to the Airport (despite the County's 2021 rezoning through Ordinance No. 2021-10 to I (Industrial) to coincide with the parcel's Industrial Future Land Use designation). The proposal to develop commercial parcels across the frontage of the parcel along Moody Boulevard arguably creates adjacent employment and services for the multifamily residential project. This development will be dependent upon the provision of potable water (as provided by the City of Palm Coast) and sanitary sewer (also through the City of Palm Coast). Because of the utility requirement, this project will likely be required to annex into the City limits as a condition of the provision of City utilities consistent with current City policies.

- D. The requested zoning will not adversely impact or exceed the capacity or the fiscal ability of Flagler County to provide available public facilities, including transportation,

water and sewer, solid waste, drainage, recreation, education, fire protection, library service and other similar public facilities.

Through the County's adoption of impact fees, the requested rezoning to R-3b will not impact or exceed the fiscal capacity of Flagler County to provide services. The timing of the pending annexation will not materially affect the impact fees paid for this project, and project impacts will straddle both jurisdictions regardless of whether the project annexes or not. The relative scarcity of multifamily housing has a benefit to the County as a whole in the provision of a diverse range of housing types. Depending on the rents, this project will have a net fiscal benefit. This project is not intended to provide workforce or affordable housing through any subsidized or rent-controlled program. Rents will be based on prevailing market rental rates.

- E. The requested zoning shall not be approved if any of the proposed permitted uses or activities result in a public nuisance.

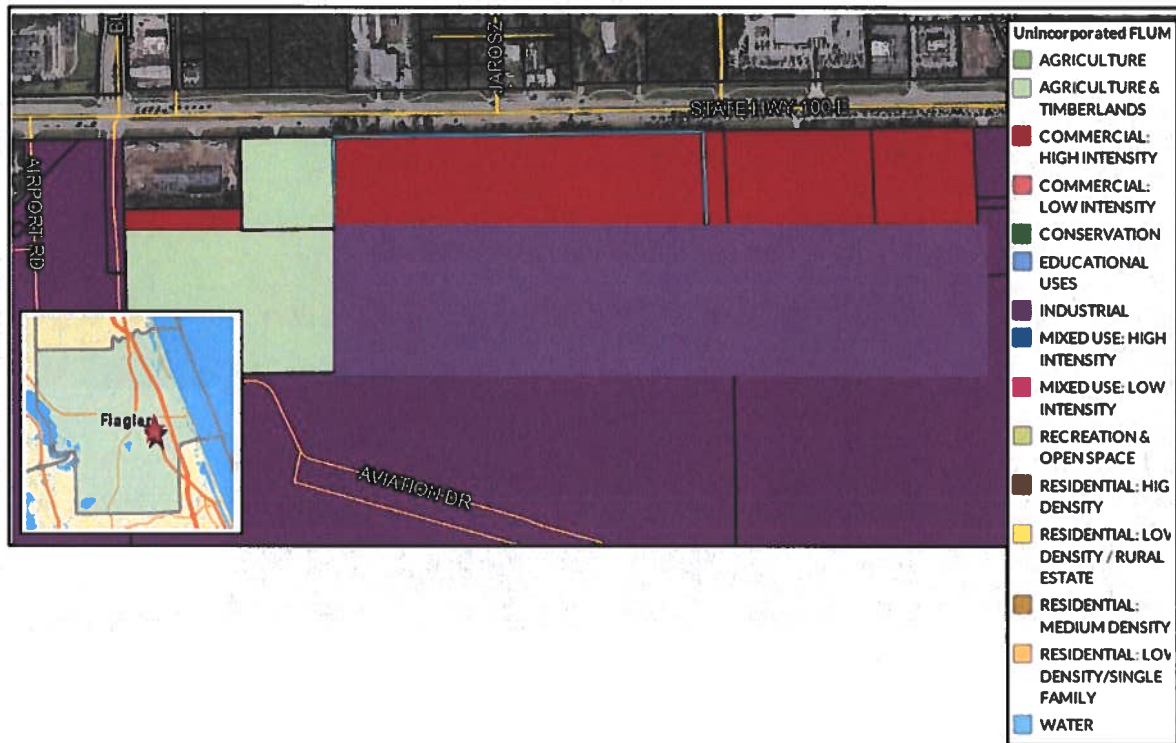
The proposed permitted uses and activities within the R-3b district will not result in a public nuisance. These uses are of a nature similar to those in other multifamily residential developments within the area.

- F. The requested zoning shall not be approved if any of the proposed traffic flow of the permitted uses have an unreasonable impact on the contiguous and surrounding area; or if the proposed traffic has an unreasonable impact upon the projected wear and tear of any public roadway designed to carry lighter traffic than proposed with the rezoning; or if the proposed traffic results in an unreasonable danger to the safety of other traffic, pedestrians, and bicyclists.

The applicant's traffic study – provided as part of Application #3330 for the Future Land Use amendment – demonstrates that while additional traffic will occur due to the development of vacant property, these impacts represent a decrease in the trip generation rate as compared to what would have resulted from the commercial and industrial development that would have been permitted under the existing Future Land Use designations and zoning districts. The current Future Land Use designation has a parcel-specific limiting policy limiting the daily trips to 17,166 daily trips and 1,613 peak hour trips, with a proposed amendment to limit the apartment units to not exceed 255.

Overall, the requested rezoning to the R-3b zoning district provides the certainty of the use and development of the parcel, and is consistent with development in the vicinity.

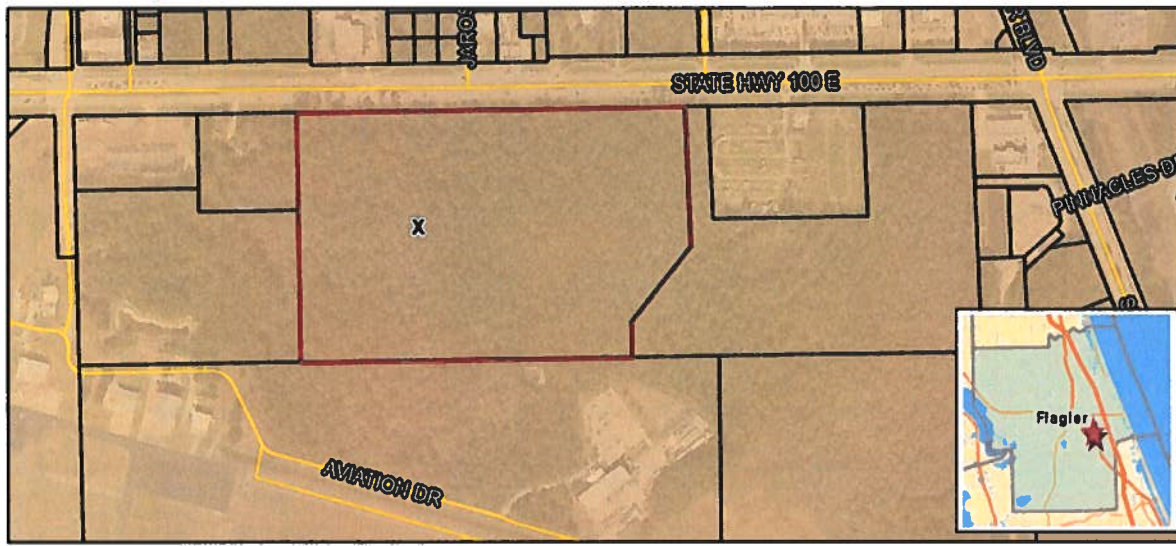
Future Land Use Map



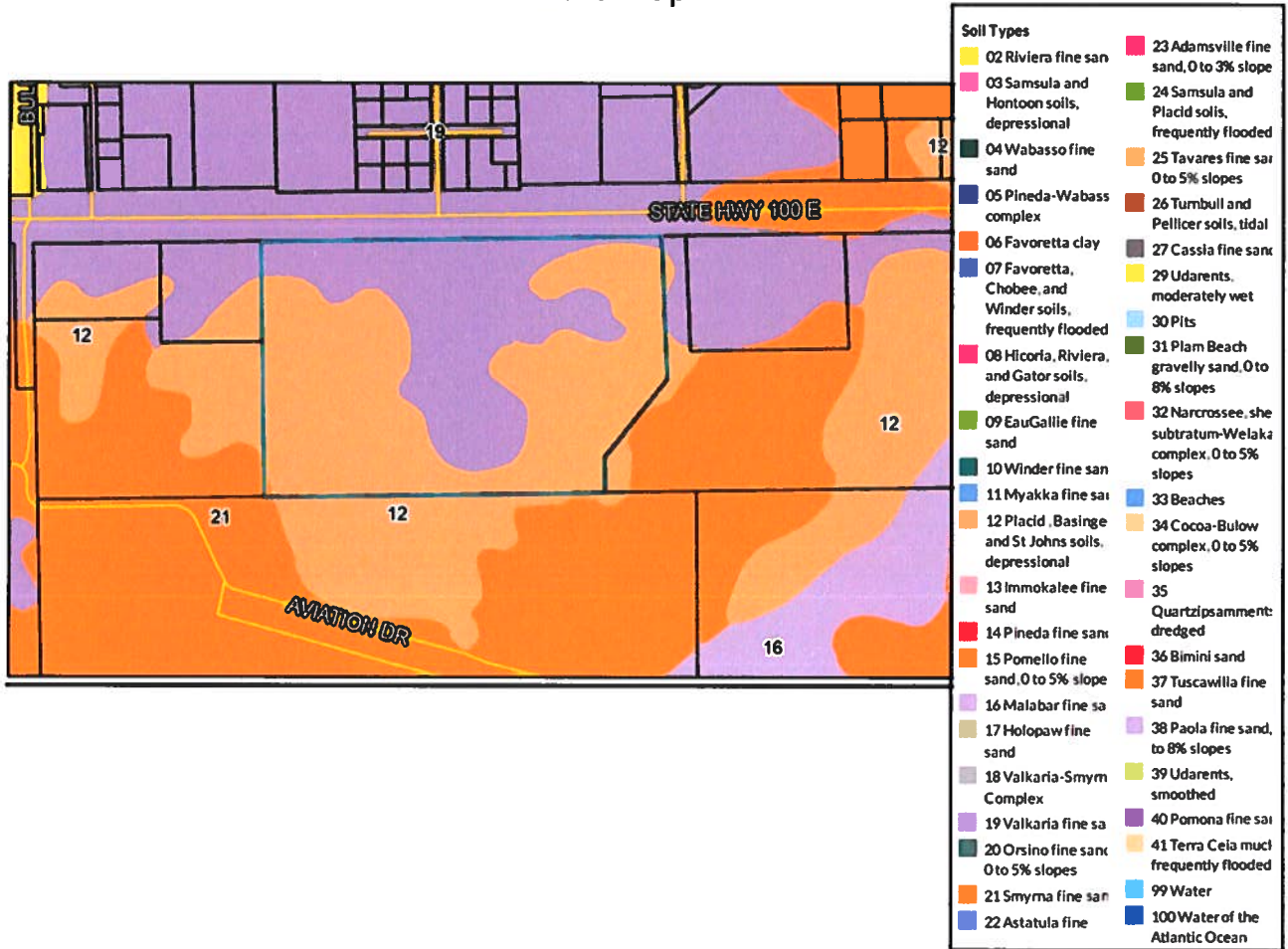
Zoning Map



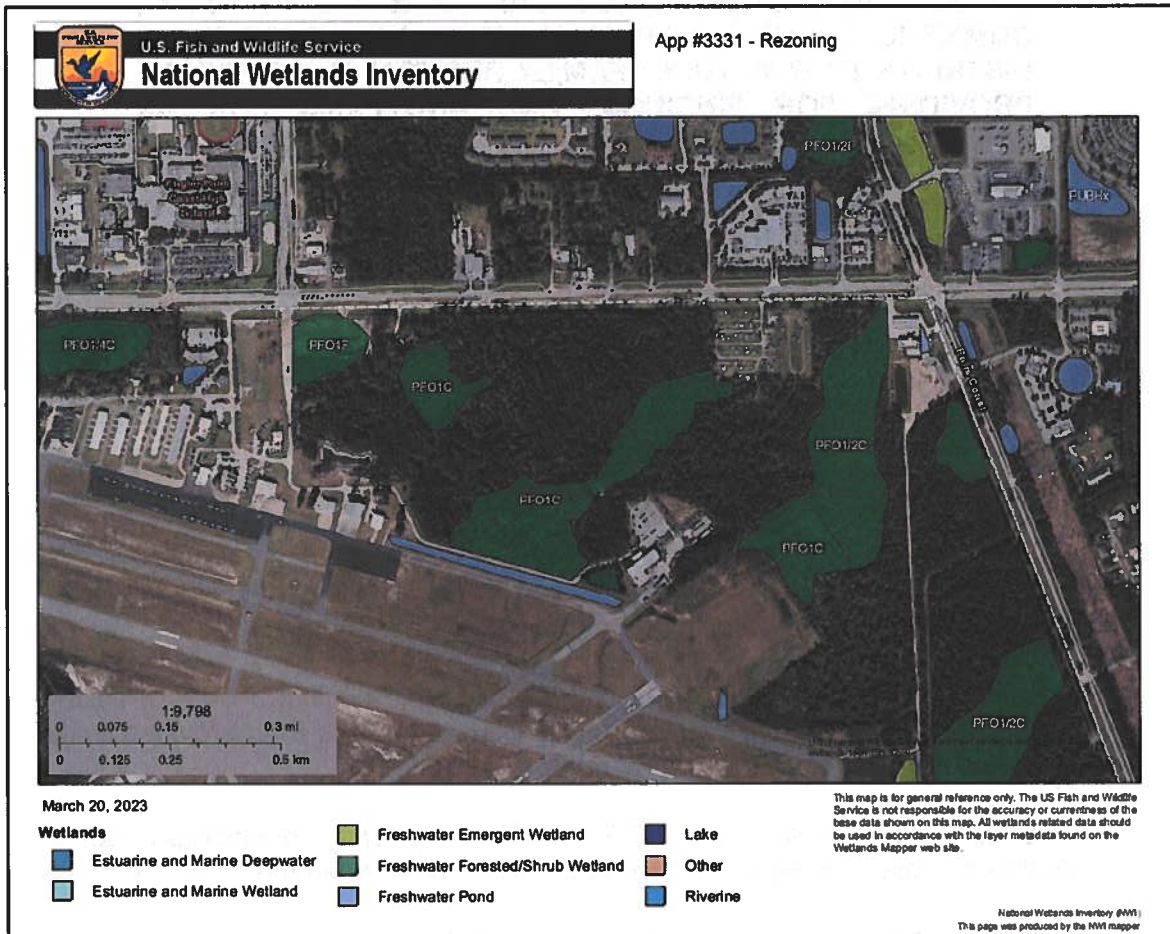
Flood Zone



Soils Map



National Wetlands Inventory Mapper



ORDINANCE NO. 2023 – ____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AMENDING THE ZONING CLASSIFICATION OF A TOTAL OF 28.32 ACRES, MORE OR LESS, BEING PART OF PARCEL NUMBER: 08-12-31-0650-000B0-0070; FROM C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) AND I (INDUSTRIAL) DISTRICTS TO R-3B (MULTIFAMILY RESIDENTIAL) DISTRICT; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Flagler Pines Properties, LLC, is the owner of Parcel Number: 08-12-31-0650-000B0-0070 (hereafter referred to as the "owner", with "developer" used interchangeably), with the area of the rezoning totaling 28.32 acres, more or less, in size as more particularly described in Exhibit "A" attached hereto and made a part hereof (hereafter the "subject parcel"); and

WHEREAS, the owner of the subject parcel is seeking the approval of this Ordinance rezoning the subject property from C-2 (General Commercial and Shopping Center) and I (Industrial) Districts to R-3b (Multifamily Residential) zoning district; and

WHEREAS, the subject parcel is designated as Residential High Density on the 2010-2035 Flagler County Future Land Use Map; and

WHEREAS, a Future Land Use Parcel Specific Limiting Policy at Policy A.1.1.10(7) of the 2010-2035 Flagler County Comprehensive Plan provides limits on daily trips and maximum number of units; and

WHEREAS, on April 11, 2023, the Planning and Development Board conducted a public hearing on this request and voted to recommend denial; and

WHEREAS, on May 15, 2023, the Flagler County Board of County Commissioners held a public hearing on this request and voted to approve the rezoning; and

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

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

Section 1. FINDINGS

A. The above Recitals are incorporated herein as Findings of Fact.

Section 2. REZONING

- A. The subject parcel containing 28.32 acres, more or less, and legally described in Exhibit "A" attached hereto and made a part hereof is hereby rezoned from 6.52+/- acres of C-2 (General Commercial and Shopping Center) and 21.80+/- acres of I (Industrial) Districts to 28.32+/- acres of R-3b (Multifamily Residential) District.
- B. The Flagler County Official Zoning Map shall be amended to reflect this rezoning.

Section 3. EFFECTIVE DATE

- A. This Ordinance shall take effect upon the recording of this Ordinance in the Public Records of Flagler County, Florida.

The recording of this Ordinance shall not occur prior to the effective date of the concurrent Future Land Use amendment related to, and which is a prerequisite for, this rezoning ordinance. Due to statutory requirements, the concurrent Future Land Use amendment shall become effective (31) thirty-one days following its adoption, unless the Future Land Use amendment is timely challenged, in which case the concurrent Future Land Use amendment shall not become effective until the Department of Economic Opportunity or the Administration Commission issues a final order determining that the adopted amendment is in compliance.

- B. If the concurrent Future Land Use amendment ordinance is not challenged, this Ordinance shall be recorded within forty-five (45) days following the date of adoption of this Ordinance.

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THIS 15TH DAY OF MAY, 2023.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____
Gregory L. Hansen, Chair

ATTEST:

Approved as to Form:

By: _____
Tom Bexley, Clerk of the
Circuit Court and Comptroller

Sean S. Moylan Digitally signed by Sean S. Moylan
Date: 2023.05.03 14:42:09 -04'00'
Sean Moylan, Deputy County Attorney

EXHIBIT "A"
Legal Description

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1387, PAGE 1869 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 11 (A 200' RIGHT-OF-WAY); THENCE ALONG THE SOUTHERLY LINE OF SAID RIGHT-OF-WAY S 89°09'05" W A DISTANCE OF 1223.50' FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINES 02°27'01" E A DISTANCE OF 275.11 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE S 02°27'01" E A DISTANCE OF 318.57 FEET; THENCE S 38°32'07" W A DISTANCE OF 410.00 FEET; THENCE S 00°50'03" E A DISTANCE OF 150.01 FEET; THENCE S 89°09'52" W A DISTANCE OF 1414.74 FEET; THENCE N 00°50'55" W A DISTANCE OF 750.02 FEET; THENCE N 89°09'05" E A DISTANCE OF 1666.02 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

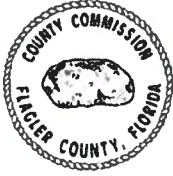
CONTAINING 28.32 ACRES MORE OF LESS.

EXHIBIT "A"
Legal Description

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CONTAINING 28.32 ACRES MORE OF LESS.



APPLICATION FOR REZONING

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

Application/Project #: 3331 / 2022090032

PROPERTY OWNER(S)	Name(s):	Flagler Pines Properties LLC	
	Mailing Address:	4 Lambert Cove	
	City: Flagler Beach	State: FL	Zip: 32136
	Telephone Number	(386) 793-4740	

APPLICANT/ AGENT	Name(s):	Jay W. Livingston, Esq. / Livingston & Sword, P.A.		
	Mailing Address:	391 Palm Coast Parkway SW #1		
	City: Palm Coast	State: FL	Zip: 32137	
	Telephone Number	(386) 439-2945	Fax Number	(866) 896-5573
	Email Address	jay.livingston314@protonmail.ch		

SUBJECT PROPERTY	SITE LOCATION (street address):	5615 State Hwy 100 E	
	LEGAL DESCRIPTION: (briefly describe, do not use "see attached")	38.78 ACRES THAT PART OF SECTION SOUT	
	Parcel # (tax ID #):	08-12-31-0650-000B0-0070	
	Parcel Size:	28.317 acres	
	Subject to A1A Scenic Corridor IDO?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO

ZONING	PRESENT Zoning Classification:	C-2 / Industrial
	Present Future Land Use Designation:	Industrial
	PROPOSED ZONING CLASSIFICATION	R-3B

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

Date

9/26/2022

OFFICIAL USE ONLY

PLANNING BOARD RECOMMENDATION/ACTION:

APPROVED {
*APPROVED WITH CONDITIONS
DENIED }

Signature of Chairman: _____

Date: _____ *approved with conditions, see attached.

BOARD OF COUNTY COMMISSIONERS ACTION:

APPROVED {
*APPROVED WITH CONDITIONS
DENIED }

Signature of Chairman: _____

Date: _____ *approved with conditions, see attached.

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. 05/08



Owner's Authorization for Applicant/Agent

FLAGLER COUNTY, FLORIDA

1769 E. Moody Boulevard, Suite 105

Bunnell, FL 32110

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

Application/Project # 3331 / 2022090032

Jay W. Livingston of Livingston & Sword, P.A., is hereby authorized TO ACT ON BEHALF OF Flagler Pines Properties LLC, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Flagler County, Florida for an application for rezoning

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

By: 

Signature of Owner

James E. Gardner, Jr. / Managing Member

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

Signature of Owner

Printed Name of Owner

Address of Owner:

Telephone Number (incl. area code)

4 Lambert Cove

(386) 793-4740

Mailing Address

Flagler Beach FL

32136

City

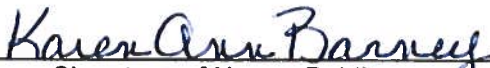
State

Zip

STATE OF Florida

COUNTY OF Flagler

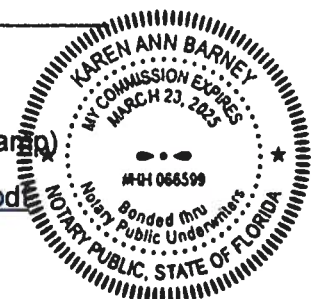
The foregoing was acknowledged before me this 5 day of April, 2022 by James E. Gardner Jr. and _____ who is/are personally known to me or who has produced _____ as identification, and who (did) / (did not) take an oath.


Signature of Notary Public

(Notary Stamp)

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

Revised 5/08



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

Property Appraisers Parcel
Identification Numbers
081231-0650-00080-0070:

WARRANTY DEED

THIS INDENTURE, Made this 18 day of January, 2006, **Florida Landmark Communities, Inc.**, a Florida corporation, successor by merger to **Palm Coast Holdings, Inc.**, 1 Corporate Drive, Suite 3A, Palm Coast, FL 32137-4715, hereinafter called the Grantor, to **Flagler Pines Properties, L.L.C.**, a Florida limited liability company, whose post office address is 5 Montilla Place, Palm Coast, FL 32137, hereinafter called the Grantee:

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

See attached Exhibit "A"

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

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

SUBJECT TO taxes for the year 2006 and subsequent years; Assessments or Owner Association, Covenants, Restrictions, Easements, Reservations and Limitations of Record, if any.

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

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

Signed, sealed and delivered in the presence of:

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

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

Eileen L. Linchan
Witness Name: Eileen L. Linchan

Danielle M. Dahl
Witness Name: Danielle M. Dahl

(Corporate Seal)

State of Florida
County of Flagler

The foregoing instrument was acknowledged before me this 18 day of January, 2006 by William I. Livingston, Division President of Florida Landmark Communities, Inc., a Florida corporation, on behalf of the corporation. He/she [X] is personally known to me or [] has produced a driver's license as identification.

[Notary Seal]



DANIELLE M. DAHL
MY COMMISSION # 00471402
EXPIRES: January 13, 2010
Bonded Thru Budget Notary Services

Danielle M. Dahl
Notary Public

Printed Name: Danielle M. Dahl

My Commission Expires: _____

LIVINGSTON & SWORD, P.A.

Attorneys At Law

September 27, 2022

Adam Mengel
Growth Management Director
Flagler County
1769 E. Moody Blvd.
Building 2, Suite 105
Bunnell, FL 32110

Subject: Application for Rezoning
Flagler Pines Properties LLC

Dear Mr. Mengel:

I am submitting an application for rezoning to rezone the property described in the accompanying application from C-2 and Industrial to R-3B. The subject property is 28.317 acres and is part of a larger parent tract that is 38.811 acres and located south of SR 100 and north of the Flagler County Executive Airport. An accompanying application to amend the Future Land Use Map land ("FLUM") use designation for the 28.317 acres from Commercial – High Intensity and Industrial to Residential: High Density is being submitted simultaneously with the rezoning application.

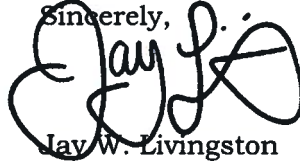
The parent tract is currently designated Commercial – High Intensity (17.01 AC) and Industrial (21.80 AC) on the FLUM. The two applications propose to amend the entire 21.80 AC presently designated Industrial to Residential: High Density on the FLUM and R-3B on the official zoning map. In addition, 6.517 AC of the property that is presently designated Commercial – High Intensity on the FLUM and C-2 on the official zoning map is also proposed to be rezoned to R-3B. The remaining 10.494 AC fronting SR 100 will remain unchanged as Commercial – High Intensity on the FLUM and C-2 on the official zoning map.

The proposed FLUM map change and rezoning will allow the 28.317 AC to be used for multi-family development. This will allow a mixed-use project to provide a complimentary mix of uses as this portion of the SR 100 corridor develops. In addition, the changes from Commercial – High Intensity and Industrial to Residential: High Density on the FLUM and from C-2 and Industrial to R-3B on the official zoning map will significantly reduce the traffic impacts from development of the property. This will alleviate concerns about the traffic impacts to SR 100 that will be caused by the proposed development of the properties immediately to the east and west of the subject property.

391 Palm Coast Parkway SW #1
Palm Coast, Florida 32137
T 386.439.2945
F 866.896.5573
jay.livingston314@protonmail.ch

I look forward to working with you and your staff on these applications. Please contact me if you have any questions, comments or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay W. Livingston". The signature is stylized with large, flowing loops and a prominent "J" and "L".

Jay W. Livingston

LIVINGSTON & SWORD, P.A.

Attorneys At Law

September 27, 2022

Adam Mengel
Growth Management Director
Flagler County
1769 E. Moody Blvd.
Building 2, Suite 105
Bunnell, FL 32110

Subject: Title Opinion Letter
Flagler Pines Properties LLC

Dear Mr. Mengel:

I have examined the title with respect to the property described in **EXHIBIT "A"** (the "Property"). Based on my examination of the title, it is my opinion that as of the date of this letter title to the Property is vested in **Flagler Pines Properties, LLC, a Florida Limited Liability Company, by virtue of that certain Warranty Deed dated January 18, 2006, and recorded January 31, 2006, in Official Records Book 1387, Page 1869** of the Public Records of Flagler County, Florida, subject to the following matters:

1. Glide area easements as contained in that instrument recorded in Official Records Book 30, Page 454 of the Public Records of Flagler County, Florida.
2. Deed of Easement to Southern Bell Telephone and Telegraph Company recorded in Official Records Book 483, Page 1384 of the Public Records of Flagler County, Florida.
3. Restrictions, covenants, and conditions as set forth in those instruments recorded in Official Records Book 602, Page 118, and Amendment recorded in Official Records Book 813, Page 447; as affected by that Partial Release recorded in Official Records Book 1109, Page 658 of the Public Records of Flagler County, Florida.
4. Ordinance No. 2008-36 recorded in Official Records Book 1707, Page 1278 of the Public Records of Flagler County, Florida.
5. Flagler County Resolution 2008-83 recorded in Official Records Book 1704, Page 1935 and re-recorded in Official Records Book 1705, Page 687 of the Public Records of Flagler County, Florida.
6. Mortgage in favor of Colonial Bank recorded in Official Records Book 914, Page 86; as affected by that Notice of Future Advance, and Mortgage and Note Modification Agreement recorded in Official Records Book 1389, Page 262; as affected by that Mortgage and Note Extension and Modification Agreement recorded in Official Records Book 1708, Page 1286; as affected by that Notice of

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T 386.439.2945
F 866.896.5573
jay.livingston314@protonmail.ch

Future Advance, and Mortgage and Note Modification Agreement recorded in Official Records Book 1716, Page 186; as affected by that Mortgage and Note Extension Agreement recorded in Official Records Book 1818, Page 1005; as affected by that Mortgage and Note Modification and Extension Agreement recorded in Official Records Book 1835, Page 1141; as affected by that Mortgage and Note Modification and Extension Agreement recorded in Official Records Book 1912, Page 1605; as affected by that Mortgage and Note Modification and Extension Agreement recorded in Official Records Book 2099, Page 305; as affected by that Mortgage and Note Modification and Extension Agreement recorded in Official Records Book 2257, Page 818; as affected by that Mortgage and Note Spreading Agreement recorded in Official Records Book 2370, Page 1227; as affected by that Mortgage and Note Modification and Extension Agreement recorded in Official Records Book 2513, Page 753, which Mortgage is now held by Intracoastal Bank, by virtue of Assignment(s) of Mortgage recorded in Official Records Book 1713, Page 1428, all of the Public Records of Flagler County, Florida.

7. Collateral Assignment of Rents, Leases and Profits from Flagler Pines Properties, LLC to Colonial Bank in Official Records Book 914, Page 110, which Mortgage is now held by Intracoastal Bank, by virtue of Assignment of Notes and Mortgage Loan Documents recorded in Official Records Book 1713, Page 1428, of the Public Records of Flagler County, Florida.
8. Subject to taxes for 2022 and subsequent years.

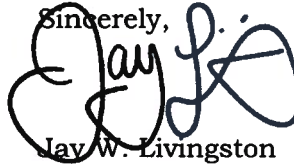
Sincerely,

Jay W. Livingston

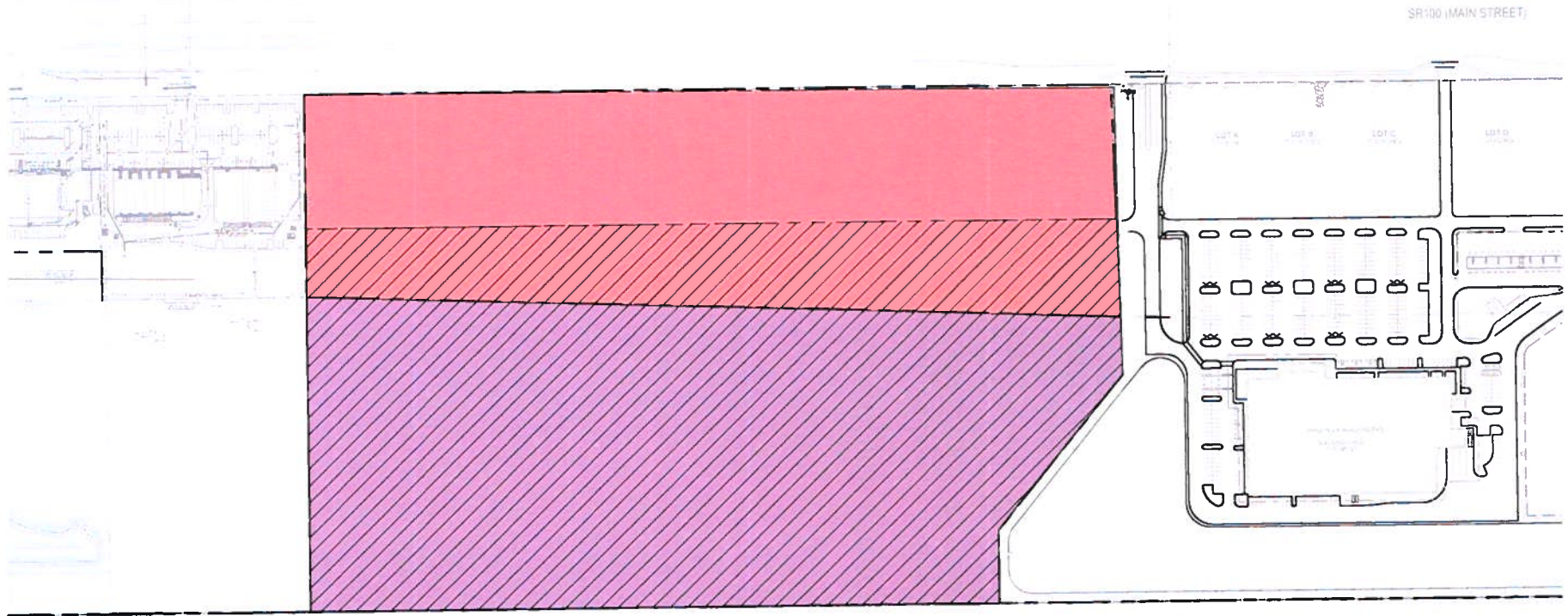
EXHIBIT "A"

LEGAL DESCRIPTION

A PARCEL OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1387, PAGE 1869 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF LOT 1, AIRPORT COMMERCE CENTER PHASE 2, AS RECORDED IN PLAT BOOK 38, PAGES 2-4, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 11 (A 200' RIGHT-OF-WAY); THENCE ALONG THE SOUTHERLY LINE OF SAID RIGHT-OF-WAY S 89°09'05" W A DISTANCE OF 1223.50' FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE S 02°27'01" E A DISTANCE OF 275.11 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE S 02°27'01" E A DISTANCE OF 318.57 FEET; THENCE S 38°32'07" W A DISTANCE OF 410.00 FEET; THENCE S 00°50'03" E A DISTANCE OF 150.01 FEET; THENCE S 89°09'52" W A DISTANCE OF 1414.74 FEET; THENCE N 00°50'55" W A DISTANCE OF 750.02 FEET; THENCE N 89°09'05" E A DISTANCE OF 1666.02 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.]

CONTAINING 28.317 ACRES MORE OR LESS



- EXISTING COMMERCIAL ZONING (APPROX. 17.01 AC.)
- EXISTING INDUSTRIAL ZONING (APPROX. 21.80 AC.)
- PROPOSED RESIDENTIAL ZONING (28.317 AC.)

ALAN ENGINEERING
 CONSULTING ENGINEERS
 CERTIFICATE NO. 12345
 1000 MAIN STREET
 FLAGLER COUNTY, FL 32117
 TEL: (904) 123-4567
 FAX: (904) 987-6543

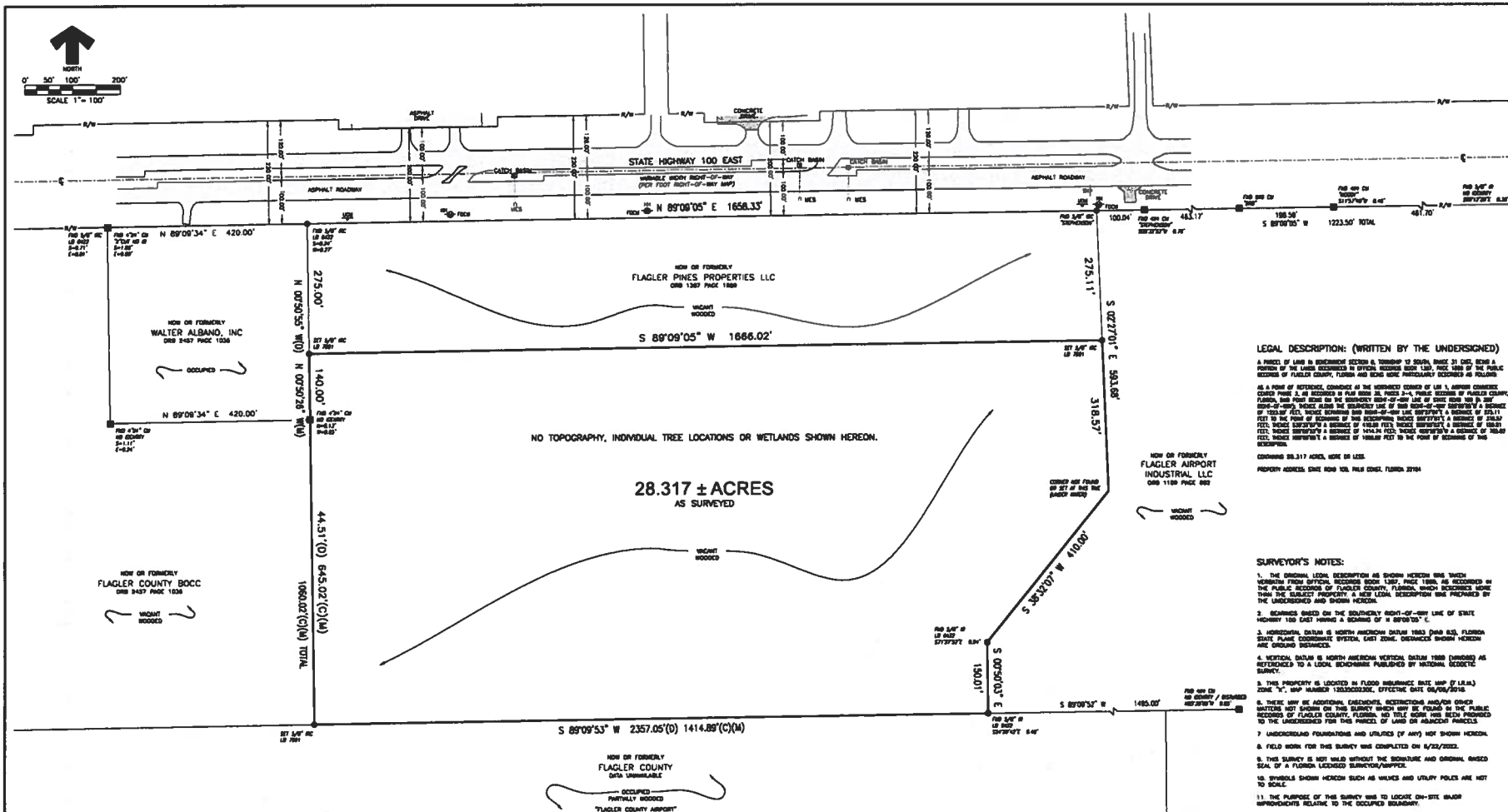
**GARDNER PROPERTY
 FLAGLER COUNTY
 CONCEPTUAL LAYOUT**

REV.	DATE	DESCRIPTION	BY

DESIGNED	CHECKED	DATE	PROJECT	SCALE	AS NOTED



**SHEET
 C001**



LEGAL DESCRIPTION: (ORB 1387 PAGE 1869)

A PARCEL OF LAND IN GOVERNMENT SECTION 3, TOWNSHIP 12 SOUTH RANGE 31 EAST BEING A PORTION OF PARCEL #12 RECORDED IN OFFICIAL RECORDS BOOK 801, PAGES 1880 THROUGH 2025 OF THE PUBLIC RECORDS OF FLAGLER COUNTY FLORIDA, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

[illegible]

SUBJECT TO A 30' WIDE EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 248, PAGES 1477 THROUGH 1479, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.

SUBJECT TO A 15 FOOT WIDE EASEMENT FOR PUBLIC ROAD ALONG EACH SIDE OF ALL SECTION AND HALF SECTION LINES ACCORDING TO PLAT OF BURNELL DEVELOPMENT COMPANY'S LAND AT BURNELL, FLORIDA, MAP BOOK 1, PAGE 1, FLAGLER COUNTY, RECORDS.

SUBJECT TO BLVD. PATH EASEMENT C-B, C-ARLOR ST. CITY AIRPORT.

LEGAL DESCRIPTION: (WRITTEN BY THE UNDERSIGNED)

A PORTION OF LAND IN GOVERNMENT SECTION 8, TOWNSHIP 12 SOUTH, RANGE 31 WEST, BEING A PORTION OF THE LANDS DISCLOSED IN OFFICIAL RECORDS BOOK 1,387, PAGE 1080 OF THE PUBLIC RECORDS OF FLAUIDA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

[illegible]

CONTAINING 29.317 ACRES, MORE OR LESS.

SURVEYOR'S NOTES:

- [illegible]

CONFIDENTIAL TO:
AT&T DEVELOPMENT GROUP, INC.

I HEREBY CERTIFY THAT THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS PER CHAPTER 25-17.000 THRU 17.003, FLORIDA ADMINISTRATIVE CODE.

KENNETH J. KUJAR
FLORIDA PROFESSIONAL SURVEYOR/MAPPER #6105

KUHAR SURVEYING & MAPPING, LLC
1501 ROSENWOOD AVENUE, SUITE 205, HOLLY HILL, FLORIDA 32117
Phone: 386-472-0002 WWW.KUHARSURVEYING.COM
© 2002 KUHAR SURVEYING & MAPPING, LLC L3 (PSM) 6105

[illegible]

BOUNDARY SURVEY

STATE HIGHWAY 100 EAST, PALM COAST, FLORIDA 32164
PREPARED FOR: ATLEE DEVELOPMENT GROUP, INC.

PROJECT NO.	K22000
DRAWING REFERENCE NO	K22000 WORKSHEETING
REVISION NO /DATE	
ORIGINAL ISSUE DATE	10/7/2022
SHEET	1 of 1



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company
FLAGLER PINES PROPERTIES, LLC

Filing Information

Document Number	L03000009490
FEI/EIN Number	06-1683330
Date Filed	03/17/2003
State	FL
Status	ACTIVE
Last Event	LC AMENDMENT
Event Date Filed	06/06/2014
Event Effective Date	NONE

Principal Address

4 LAMBERT COVE
FLAGLER BEACH, FL 32136

Changed: 06/06/2014

Mailing Address

4 LAMBERT COVE
FLAGLER BEACH, FL 32136

Changed: 06/06/2014

Registered Agent Name & Address

GARDNER, JAMES E, JR.
4 LAMBERT COVE
FLAGLER BEACH, FL 32136

Address Changed: 06/06/2014

Authorized Person(s) Detail

Name & Address

Title MGRM

GARDNER, JAMES JR
4 LAMBERT COVE
FLAGLER BEACH, FL 32136

Annual Reports

Report Year	Filed Date
2020	03/17/2020
2021	05/18/2021
2022	01/31/2022

Document Images

01/31/2022 -- ANNUAL REPORT	View image in PDF format
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03/17/2020 -- ANNUAL REPORT	View image in PDF format
04/04/2019 -- ANNUAL REPORT	View image in PDF format
04/11/2018 -- ANNUAL REPORT	View image in PDF format
05/16/2017 -- ANNUAL REPORT	View image in PDF format
03/28/2016 -- ANNUAL REPORT	View image in PDF format
04/17/2015 -- ANNUAL REPORT	View image in PDF format
06/06/2014 -- LC Amendment	View image in PDF format
04/08/2014 -- ANNUAL REPORT	View image in PDF format
04/09/2013 -- ANNUAL REPORT	View image in PDF format
04/24/2012 -- ANNUAL REPORT	View image in PDF format
04/12/2011 -- ANNUAL REPORT	View image in PDF format
04/26/2010 -- ANNUAL REPORT	View image in PDF format
04/28/2009 -- ANNUAL REPORT	View image in PDF format
06/04/2008 -- ANNUAL REPORT	View image in PDF format
06/13/2007 -- ANNUAL REPORT	View image in PDF format
04/07/2006 -- ANNUAL REPORT	View image in PDF format
02/14/2005 -- ANNUAL REPORT	View image in PDF format
04/05/2004 -- ANNUAL REPORT	View image in PDF format
03/17/2003 -- Florida Limited Liabilites	View image in PDF format

2022 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L03000009490

Entity Name: FLAGLER PINES PROPERTIES, LLC

Current Principal Place of Business:

4 LAMBERT COVE
FLAGLER BEACH, FL 32136

Current Mailing Address:

4 LAMBERT COVE
FLAGLER BEACH, FL 32136

FEI Number: 06-1683330

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

GARDNER, JAMES E JR.
4 LAMBERT COVE
FLAGLER BEACH, FL 32136 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent

Date

Authorized Person(s) Detail :

Title MGRM
Name GARDNER, JAMES JR
Address 4 LAMBERT COVE
City-State-Zip: FLAGLER BEACH FL 32136

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 605, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: JAMES E GARDNER, II

MANAGING MEMBER

01/31/2022

Electronic Signature of Signing Authorized Person(s) Detail

Date

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 10 / 19 / 2022

REZONING FROM I (INDUSTRIAL) DISTRICT TO
R-3B (MULTI-FAMILY RESIDENTIAL) DISTRICT

APPLICANT: JAY LIVINGSTON, ESQUIRE
OWNER: FLAGLER PINES PROPERTIES, LLC

Distribution date: October 14, 2022

Project #: 2022090032 / AR #3577

Application #: 3331

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

Flagler County Building Department	386-313-4002
Flagler County Planning Department	386-313-4009
Flagler County Development Engineering	386-313-4082
Flagler County General Services (Utilities)	386-313-4184
County Attorney	386-313-4005
Flagler County Fire Services	386-313-4258
E-911 GIS Specialist	386-313-4274
Environmental Health Department	386-437-7358
Flagler County School Board	386-586-2386

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

1. No comments at this time

REVIEWING DEPARTMENT: COUNTY ATTORNEY

1. Comments pending at this time.

REVIEWING DEPARTMENT: FLAGLER EXECUTIVE AIRPORT

It would be my recommendation not to approve the rezoning the property described in Application 3331/2022090032 from C-2 and Industrial to R-3B based on the following reasons:

- a) This property is contiguous the Flagler Executive Airport. The rezoning of the property would allow for the development of multi-family development, which is not a compatible land use for the airport. This property was rezoned in 2021, under Ordinance No. 2021-10 from AC (Agriculture) district to I (Industrial) district, which is a compatible land use as a developer could construct warehouse facilities or other types of commercial/industrial uses that could benefit from the proximity to the airport and I-95.
- b) In addition to the incompatible land use, this request is not aligned with the recently approved Flagler County Strategic Plan outlined under Economic Vitality Objectives EV 2.1 and EV 2.4. Flagler County does not have an abundance of large plots of land to be utilized for commercial and industrial development. By approving this rezoning, it would further diminish the availability of large plots of land for commercial/industrial uses. Residential construction is a short-term job creator, while commercial/industrial is long-term.
- c) The Flagler Executive Airport has a perceived aircraft noise issue, which is continuously brought to the attention of the Airport Director. The addition of a multi-family development could potentially lead to over 600 new residents bordering the third busiest General Aviation airport in Florida. It would be inevitable that these new residents would complain about the aircraft noise as the neighboring residents do now. I see no reason to exacerbate this issue when there are many other areas in Flagler County where a multi-family development would be better suited.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. No comments at this time.
2. Considerations for development at this site:
 - a. Traffic Impact analysis, scope, /existing background traffic
 - b. FDOT access
 - c. Cross access from the east and the west.
 - d. Stormwater management.

REVIEWING DEPARTMENT: E-911 STAFF

1. No comments.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

1. No objection or comments.

REVIEWING DEPARTMENT: FIRE INSPECTOR

1. Fire Rescue has no Issue with the rezoning project.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The density for the R-3B (Multifamily Residential) District is 9 units per acre. Based on the 28.317 acres the maximum allowable units for this proposed development will be 255 units. The zoning district requires public or community water and sewer facilities. The affordable multifamily density bonus (to 10 units per acre) is awarded provided the following criteria are met:

- a) Definitions:

Affordable multifamily unit: A multifamily unit which is available to a household earning one hundred (100) percent or less of the county's median income, adjusted for family size, which can be rented or purchased in the market without spending more than thirty (30) percent of its income.

Land use restriction agreement: A deed restriction which establishes the responsibilities of the developer and his successors.

Low income household: A household in the county which earns less than eighty (80) percent of the county's median income, adjusted for family size.

Moderate income household: A household in the county which earns eighty (80) to one hundred (100) percent of the county's median income, adjusted for family size.

- b) At least ten (10) percent of the project's units must be designated as affordable multifamily units for low and moderate income households. A maximum of thirty (30) percent of the project's units may be designated as affordable housing for low income households and a maximum of thirty (30) percent of the project's units may be designated for moderate income households. A minimum of forty (40) percent of the units must remain market rate units.
 - c) The maximum percentages listed above for low to moderate income units may not be exceeded for a minimum of a fifteen-year period. To insure compliance with this provision, the property owner shall execute a land use restriction agreement with the county, which specifies the low to moderate income occupancy requirements for the property, including the number of rental units which will be subject to affordability provisions, the rent limits, the income limits proposed, and the affordability period. The land use restriction agreement shall require the developer and his successors to submit an annual report to the county for the purpose of monitoring compliance with the agreement.
2. Provide letter from utility provider for provision of water and sewer services.
 3. The requested zoning designation must be consistent with the goals, objectives, and policies of the Flagler County Comprehensive Plan. Provide supporting statement that the requested FLUM is consistent the Flagler County Comprehensive Plan and the goals, objectives and policies.
 4. The requested zoning will not adversely impact or exceed the capacity or the fiscal ability of Flagler County to provide available public facilities, including transportation, water and sewer, solid waste, drainage, recreation, education, fire protection, library service and other similar

public facilities. Provide supporting statement that the rezoning will not adversely impact or exceed the capacity or the fiscal ability of Flagler County to provide.

5. The requested zoning designation must be compatible with the adjacent and surrounding land uses. Land uses shall include, but not be limited to permitted uses, structures, and activities allowed within the Future Land Use category and zoning district. Compatibility shall be based on characteristics which can impact adjacent or surrounding uses including type of use, height, appearance, aesthetics, odors, noise, smoke, dust, vibration, traffic, sanitation, drainage, fire risk, environmental impacts, maintenance of public infrastructure, availability of potable water and sanitary sewer, and other necessary public services. Please offer statements on how the proposed rezoning is compatible with adjacent and surrounding land uses.
6. The requested zoning shall not be approved if any of the proposed traffic flow of the permitted uses have an unreasonable impact on the contiguous and surrounding area; or if the proposed traffic has an unreasonable impact upon the projected wear and tear of any public roadway designed to carry lighter traffic than proposed with the rezoning; or if the proposed traffic results in an unreasonable danger to the safety of other traffic, pedestrians, and bicyclists. Provide supporting statements that the proposed zoning will not have an unreasonable impact on the contiguous and surrounding area, the proposed traffic and will not result in unreasonable danger to the safety of the pedestrians and bicyclists.

FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 10 / 19 / 2022

**REZONING FROM I (INDUSTRIAL) DISTRICT TO
R-3B (MULTI-FAMILY RESIDENTIAL) DISTRICT**

**APPLICANT: JAY LIVINGSTON, ESQUIRE
OWNER: FLAGLER PINES PROPERTIES, LLC**

Distribution date: October 14, 2022

Project #: 2022090032 / AR #3577

Application #: 3331

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.**

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Environmental Health Department	386-437-7358
Flagler County School Board	386-586-2386

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

1. No comments at this time

REVIEWING DEPARTMENT: COUNTY ATTORNEY

1. Comments pending at this time.

REVIEWING DEPARTMENT: FLAGLER EXECUTIVE AIRPORT

It would be my recommendation not to approve the rezoning the property described in Application 3331/2022090032 from C-2 and Industrial to R-3B based on the following reasons:

- a) This property is contiguous the Flagler Executive Airport. The rezoning of the property would allow for the development of multi-family development, which is not a compatible land use for the airport. This property was rezoned in 2021, under Ordinance No. 2021-10 from AC (Agriculture) district to I (Industrial) district, which is a compatible land use as a developer could construct warehouse facilities or other types of commercial/industrial uses that could benefit from the proximity to the airport and I-95.
- b) In addition to the incompatible land use, this request is not aligned with the recently approved Flagler County Strategic Plan outlined under Economic Vitality Objectives EV 2.1 and EV 2.4. Flagler County does not have an abundance of large plots of land to be utilized for commercial and industrial development. By approving this rezoning, it would further diminish the availability of large plots of land for commercial/industrial uses. Residential construction is a short-term job creator, while commercial/industrial is long-term.
- c) The Flagler Executive Airport has a perceived aircraft noise issue, which is continuously brought to the attention of the Airport Director. The addition of a multi-family development could potentially lead to over 600 new residents bordering the third busiest General Aviation airport in Florida. It would be inevitable that these new residents would complain about the aircraft noise as the neighboring residents do now. I see no reason to exacerbate this issue when there are many other areas in Flagler County where a multi-family development would be better suited.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. No comments at this time.
2. Considerations for development at this site:
 - a. Traffic Impact analysis, scope, /existing background traffic
 - b. FDOT access
 - c. Cross access from the east and the west.
 - d. Stormwater management.

REVIEWING DEPARTMENT: E-911 STAFF

1. No comments.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

1. No objection or comments.

REVIEWING DEPARTMENT: FIRE INSPECTOR

1. Fire Rescue has no Issue with the rezoning project.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The density for the R-3B (Multifamily Residential) District is 9 units per acre. Based on the 28.317 acres the maximum allowable units for this proposed development will be 255 units. The zoning district requires public or community water and sewer facilities. The affordable multifamily density bonus (to 10 units per acre) is awarded provided the following criteria are met:

a) Definitions:

Affordable multifamily unit: A multifamily unit which is available to a household earning one hundred (100) percent or less of the county's median income, adjusted for family size, which can be rented or purchased in the market without spending more than thirty (30) percent of its income.

Land use restriction agreement: A deed restriction which establishes the responsibilities of the developer and his successors.

Low income household: A household in the county which earns less than eighty (80) percent of the county's median income, adjusted for family size.

Moderate income household: A household in the county which earns eighty (80) to one hundred (100) percent of the county's median income, adjusted for family size.

- b) At least ten (10) percent of the project's units must be designated as affordable multifamily units for low and moderate income households. A maximum of thirty (30) percent of the project's units may be designated as affordable housing for low income households and a maximum of thirty (30) percent of the project's units may be designated for moderate income households. A minimum of forty (40) percent of the units must remain market rate units.
 - c) The maximum percentages listed above for low to moderate income units may not be exceeded for a minimum of a fifteen-year period. To insure compliance with this provision, the property owner shall execute a land use restriction agreement with the county, which specifies the low to moderate income occupancy requirements for the property, including the number of rental units which will be subject to affordability provisions, the rent limits, the income limits proposed, and the affordability period. The land use restriction agreement shall require the developer and his successors to submit an annual report to the county for the purpose of monitoring compliance with the agreement.
2. Provide letter from utility provider for provision of water and sewer services.
 3. The requested zoning designation must be consistent with the goals, objectives, and policies of the Flagler County Comprehensive Plan. Provide supporting statement that the requested FLUM is consistent the Flagler County Comprehensive Plan and the goals, objectives and policies.
 4. The requested zoning will not adversely impact or exceed the capacity or the fiscal ability of Flagler County to provide available public facilities, including transportation, water and sewer, solid waste, drainage, recreation, education, fire protection, library service and other similar

public facilities. Provide supporting statement that the rezoning will not adversely impact or exceed the capacity or the fiscal ability of Flagler County to provide.

5. The requested zoning designation must be compatible with the adjacent and surrounding land uses. Land uses shall include, but not be limited to permitted uses, structures, and activities allowed within the Future Land Use category and zoning district. Compatibility shall be based on characteristics which can impact adjacent or surrounding uses including type of use, height, appearance, aesthetics, odors, noise, smoke, dust, vibration, traffic, sanitation, drainage, fire risk, environmental impacts, maintenance of public infrastructure, availability of potable water and sanitary sewer, and other necessary public services. Please offer statements on how the proposed rezoning is compatible with adjacent and surrounding land uses.
6. The requested zoning shall not be approved if any of the proposed traffic flow of the permitted uses have an unreasonable impact on the contiguous and surrounding area; or if the proposed traffic has an unreasonable impact upon the projected wear and tear of any public roadway designed to carry lighter traffic than proposed with the rezoning; or if the proposed traffic results in an unreasonable danger to the safety of other traffic, pedestrians, and bicyclists. Provide supporting statements that the proposed zoning will not have an unreasonable impact on the contiguous and surrounding area, the proposed traffic and will not result in unreasonable danger to the safety of the pedestrians and bicyclists.

LIVINGSTON & SWORD, P.A.

Attorneys At Law

February 7, 2023

Adam Mengel
Growth Management Director
Flagler County
1769 E. Moody Blvd.
Building 2, Suite 105
Bunnell, FL 32110

Subject: Responses to Technical Review Committee Comments dated
October 19, 2022
Application for Rezoning from I (Industrial) to R-3B (Multi-Family
Residential) District
Project #: 2022090032 / AR #3577
Application #: 3331

Dear Mr. Mengel:

The comments from the October 14, 2022, Technical Review Committee letter are restated below with the applicant's responses to each. In addition, the following materials are being submitted in support of the above application and the responses below:

- Airport Noise Study – Flagler County Executive Airport Gardner SR 100 Site Palm Coast, Florida, prepared by RML Acoustics, LLC dated December 10, 2022.
- Survey of airport noise issues at various airports throughout the state of Florida that have adjacent multi-family uses.
- Traffic Memorandum – Flagler Airport 100 Property. This contains the trip generation factors used to determine the applicant's responses below.
- Revised conceptual plans for the project. Details have been added to two of the plans to show the distance of the proposed multi-family buildings closest to the Flagler Executive Airport from both the nearest runway as well as from the shared boundary line with the airport.
- Utility Availability Letter from the City of Palm Coast Utility Department

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

1. No comments at this time

RESPONSE: No response required.

391 Palm Coast Parkway SW #1
Palm Coast, Florida 32137
T 386.439.2945
F 866.896.5573
jay.livingston314@protonmail.ch

REVIEWING DEPARTMENT: COUNTY ATTORNEY

1. Comments pending at this time

RESPONSE: No response required.

REVIEWING DEPARTMENT: FLAGLER EXECUTIVE AIRPORT

It would be my recommendation not to approve the rezoning the property described in Application 3331/2022090032 from C-2 and Industrial to R-3B based on the following reasons:

- a) The property is contiguous the Flagler Executive Airport. The rezoning of the property would allow for development of multi-family development, which is not a compatible land use for the airport. This property was rezoned in 2021, under Ordinance No. 2021-10 from AC (Agriculture) district to I (Industrial) district, which is a compatible land use as a developer could construct warehouse facilities or other types of commercial/industrial uses that could benefit from the proximity to the airport and I-95.

RESPONSE: The applicant has filed two applications to support the proposed mixed-use project consisting of multi-family and commercial uses. The first application proposed to amend Flagler County's Future Land Use Map to Residential: High Density for the portion of the property proposed for multi-family use. The frontage along SR 100 will remain within the Commercial: High Intensity land use designation on the County's Future Land Use Map. In addition, the applicant is agreeable to a project specific limiting policy that will ensure the development proceeds as depicted in the updated conceptual plan. This change to the Future Land Use Map will make the proposed project compatible with the County's Comprehensive Plan.

The second application requests a change to the zoning district on the portion of the property where multi-family development is proposed from C-2 and Industrial to R-3B. If both applications are approved by the County Commission, then the proposed mixed-use project will be consistent with the County's Comprehensive Plan and in compliance with the Land Development Code's zoning district regulations.

The applicant respectfully disagrees that the proposed multi-family use next to the airport is not a compatible use. The applicant had an Airport Noise Study for the Flagler Executive Airport prepared by RML Acoustics, LLC. A copy of this report is being submitted with this response letter. As noted in the executive summary of the report, using two locations close to the shared boundary with the airport demonstrated that sounds attributable to "just plane-related events was between 42 and 52 dBA...which are well below the FAA's DNL criterion of 65 dBA...". Based on this analysis RML Acoustics concludes in its report that "[b]ased on the sound levels measured on the project site for seven consecutive days, including days with over 300 plane-related events, and using FAA criteria for land use compatibility, the proposed residential land use on the project site...is

compatible with the Airport...". In addition to the noise study the applicant performed a survey of residents within residential projects located adjacent to the Sarasota International Airport, the Orlando International Airport, the Melbourne Orlando International Airport, the Daytona Beach International Airport, and the Tampa International Airport. A copy of this survey is also being submitted with this response letter. The overwhelming response from this survey was that noise was not a problem with the residents in these projects.

- b) In addition to the incompatible land use, this request is not aligned with the recently approved Flagler County Strategic Plan outlined under Economic Vitality Objectives EV 2.1 and EV 2.4. Flagler County does not have an abundance of large plots of land to be utilized for commercial and industrial development. By approving this rezoning, it would further diminish the availability of large plots of land for commercial/industrial uses. Residential construction is a short-term job creator, while commercial/industrial is long-term.

RESPONSE: The applicant is proposing a mixed-use project, which includes 9.736 acres of commercial frontage parcels. At the applicable Floor Area Ratio this would allow for up to 169,640 square feet of commercial development. This along with the existing vacant commercial and industrial land surrounding the Airport and in the immediate area, including Airport Commerce Center (Plat Book 36, Page 88) and the approximately 180 vacant upland acres along Fin Way on the south side of the airport property is more than sufficient to meet all of the County's needs for commercial and industrial development now and in the future. The 9.736 acres will provide opportunities for commercial development for long-term job creation. Therefore, the proposed project is not inconsistent with Economic Vitality Objectives EV 2.1 and EV 2.4.

While commercial development and job creation is a critically important priority for the long-term health and wellbeing of the County these goals must be balanced with the impacts created by this type of development. The recently approved Cornerstone at Seminole Woods ("Cornerstone") development immediately adjacent to the east of the proposed project has raised concerns about the level of service and capacity of SR 100 and the surrounding road network. Utilizing all of the acreage on the subject parcel for high intensity industrial and commercial development up to the permitted 17,166 trips per day permitted by the County's Comprehensive Plan, coupled with continued growth in the Town Centre Development, and additional commercial land adjacent to the Airport to the west, will result in a substantial and likely unsustainable growth in traffic along SR 100.

Cornerstone is anticipated to generate 8,084 trips per day. At its maximum buildout potential, the 255 multi-family residential units will generate 1,718 gross trips per day with the commercial frontage parcels generating up to 6,278 gross trips per day. This does not include reductions for pass by-trips and internal capture. Therefore, worst case scenario the proposed project will generate 7,996 additional daily trips although the actual trip generation is anticipated to be much

lower as noted in the Traffic Memorandum dated September 8, 2022, prepared by Traffic Planning and Design, Inc.

Finally, multi-family development is not inconsistent with the County's economic development goals. In fact, not only does multifamily development result in economic growth at the construction stage but after it is completed continues to contribute to the local economy through the spending power of its residents, services needed to maintain the facility and, most importantly, by ensuring there is housing available to workers that will be needed for the commercial and industrial development the County wants to attract¹. Without a diverse housing base and available housing in proximity to areas targeted for economic development the County will not be able to attract the commercial and industrial users that are critical to the success of the strategic plan.

- c) The Flagler Executive Airport has a perceived aircraft noise issue, which is continuously brought to the attention of the Airport Director. The addition of a multi-family development could potentially lead to over 600 new residents bordering the third busiest General Aviation airport in Florida. It would be inevitable that these new residents would complain about the aircraft noise as the neighboring residents do now. I see no reason to exacerbate this issue when there are many other areas in Flagler County where a multi-family development would be better suited.

RESPONSE: This is not supported by the competent substantial evidence submitted in support of the applications for FLUM amendment and rezoning. See above as well as the Airport Noise Study and survey of noise complaints in residential projects next to airports throughout the State of Florida submitted with this response letter. Noise complaints from other areas of the County are not necessarily relevant or comparable to proposed development on the subject property.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

- 1. No comments at this time.

RESPONSE: No response required.

- 2. Considerations for development at this site:
 - a. Traffic impact analysis, scope, /existing background traffic
 - b. FDOT access
 - c. Cross access from the east and the west.
 - d. Stormwater management.

¹ "Renters spend more of their income locally than home-owners," Fuller points out. "These renter households generate a lot of jobs that ordinarily wouldn't be associated with the apartment -industry."
https://www.multifamilyexecutive.com/property-management/apartment-trends/measuring-the-economic-impact-of-apartment-communities_o#:~:text=Multifamily%20construction%20contributed%20%2442.5%20billion%20to%20the%20C%2ADnational,economic%20contribution%20nearly%2021%20times%20greater%20than%20construction.

RESPONSE: Duly noted.

REVIEWING DEPARTMENT: E-911 STAFF

1. No comments.

RESPONSE: No response required.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

1. No objection or comments.

RESPONSE: No response required.

REVIEWING DEPARTMENT: FIRE INSPECTOR

1. Fire Rescue has no Issue with the rezoning project.

RESPONSE: No response required.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The density for the R-3b (Multifamily Residential) District is 9 units per acre. Based on the 28.317 acres the maximum allowable units for this proposed development will be 255 units. The zoning district requires public or community water and sewer facilities. The affordable multifamily density bonus (to 10 units per acre) is awarded provided the following criteria are met:

a) Definitions:

Affordable multifamily unit: A multifamily unit which is available to a household earning one hundred (100) percent or less of the county's median income, adjusted for family size, which can be rented or purchased in the market without spending more than thirty (30) percent of its income.

Land use restriction agreement: A deed restriction which establishes the responsibility of the developer and his successors.

Low income household: A household in the county which earns less than eighty (80) percent of the county's median income, adjusted for family size.

Moderate income household: A household in the county which earns eight (80) to one hundred (100) percent of the county's median income, adjusted for family size.

- b) At least ten (10) percent of the project's units must be designated as affordable multifamily units for low and moderately income households. A maximum of thirty (30) percent of the project's units may be designated as affordable housing for low income households and a maximum of thirty (30) percent of the project's units may be designated for moderate income households. A minimum of forty (40) percent of the units must remain market rate units.
- c) The maximum percentages listed above for low to moderate income units may not be exceeded for a minimum of a fifteen-year period. To insure compliance

with this provision, the property owner shall execute a land use restriction agreement with the county, which specifies the low to moderate income occupancy requirements for the property, including the number of rental units which will be subject to affordability provisions, the rent limits, the income limits proposed, and the affordability period. The land use restriction agreement shall require the developer and his successors to submit an annual report to the county for the purpose of monitoring compliance with the agreement.

RESPONSE: The developer will no longer be pursuing affordable housing units for the proposed development. The maximum number of units in the revised conceptual plan is 255.

2. Provide letter from utility provider for provision of water and sewer services.

RESPONSE: A utility availability letter from the City of Palm Coast Utility Department is being submitted with this response letter.

3. The requested zoning designation must be consistent with the goals, objectives, and policies of the Flagler County Comprehensive Plan. Provide supporting statement that the requested FLUM is consistent the Flagler County Comprehensive Plan and the goals, objectives and policies.

RESPONSE: An accompanying application for Future Land Use Map ("FLUM") amendment accompanies this application for rezoning. The proposed amendment to the FLUM will need to be approved for the proposed rezoning to be consistent with the Flagler County Comprehensive Plan. Assuming that application is approved the application for rezoning is consistent with the following goals, objectives and policies of the Flagler County Comprehensive Plan:

- **Policy A.1.1.10(7) – The project at buildout will not exceed the 17,166 daily trips and 1,613 peak hour trips, inclusive of previously allocated trip for adjacent projects, permitted on the relevant parcels of which the subject property is a part.**
- **Policy A.1.2.2 – The concurrent FLUM amendment and rezoning applications will allow the proposed project to be considered as a whole by the Planning and Zoning Department and the Board of County Commission.**
- **Objective A.1.5 – The proposed project is an infill project with both commercial and high-density residential components. This furthers the objective of limiting urban sprawl.**
- **Policy A.1.5.5(1) – The mixed-use nature of the overall development incorporating both high intensity commercial and high-density residential uses will further avoid urban sprawl and ensure that single-use development in excess of demonstrated need will not occur.**
- **Policy A.1.5.6 – The proposed project will utilize shared access with the project to the east, which will be signalized.**

- **Policy A.1.6.2** – The multi-family residential component of the development, as restricted by the proposed project specific limiting policy included with the application for FLUM amendment, will be designed with sufficient buffers and distances that will ensure there is no encroachment by or conflicts with incompatible land uses. Also see, Policy A.1.6.5.
 - **Objective A.2.6** – The proposed amendment to permit a mixed-use development consisting of multi-family and commercial components will ensure both economic opportunity and diversity. Multi-family residential uses near the airport and adjacent to High Intensity Commercial uses will help provide housing for the workforce that will serve the new economic development in the area. It will in turn reduce the traffic impacts that are unavoidable with intense commercial development.
 - **Policy A.2.6.1** – The Airport Noise Study demonstrations that the proposed FLUM amendment to Residential will not be incompatible with the operations at the Flagler Executive Airport.
4. The requesting zoning will not adversely impact or exceed the capacity or the fiscal ability of Flagler County to provide available public facilities, including transportation, water and sewer, solid waste, drainage, recreation, education, fire protection, library service and other similar public facilities. Provide supporting statement that the rezoning will not adversely impact or exceed the capacity or the fiscal ability of Flagler County to provide.

RESPONSE: The requested zoning is a downzoning request from the current zoning of Industrial. The only impacts that are not being decreased by the addition of multi-family residential use is to educational facilities and library services. The developer will be required to determine if there is available school capacity for the proposed project at the time of site plan approval. If the Flagler County School District determines that there is not sufficient capacity of student stations to serve the proposed development, then the developer will enter into a proportionate fair share mitigation agreement to provide a financial contribution towards additional student stations. In addition to the proportionate fair share contribution, the developer will be required to pay educational facilities impact fees that exceed its total prop share contribution.

The County is not the water and sewer provider in the immediate area. The availability letter issued by the City of Palm Coast's utility department demonstrates that there is capacity to serve the development. Any additional upgrades or expansions of the City of Palm Coast's utility systems to serve the development will be handled at the time the developer negotiations its Contribution In Aid of Construction Utility Agreement with the City.

In addition to educational facilities, the project will also ensure there is no adverse financial impact on Flagler County by paying all applicable impact fees that will

be due for the project. At the current impact fee rates, if the project is developed with the maximum 255 multi-family dwelling units it will contribute the following amounts in impact fees (not including impact fees for the commercial frontage):

- Fire Rescue – \$66,810**
- EMS – \$8,160**
- Law Enforcement – \$28,305**
- Libraries – \$35,445**
- Parks & Rec – \$31,110**
- Transportation – \$176,205**

In addition to the direct development fees that will be paid to Flagler County as part of the development process, the multi-family portion of the project will also significantly add to the tax base. As an example, the Integra Woods apartment complex consists of 310 units and had an assessed value in 2022 of \$32,700,000 and an annual tax bill of \$587,730.73. As a comparison, the Target store located at the corner of SR 100 and Belle Terre Parkway has an assessed value in 2022 of \$9,582,309 and an annual tax bill of \$258,209.01. Therefore, the project will not have a negative fiscal impact on Flagler County. In fact, once developed it will significantly add to the County's tax base.

5. The requested zoning designation must be compatible with the adjacent and surrounding land uses. Land uses shall include, but not be limited to permitted uses, structures, and activities allowed within the Future Land Use category and zoning district. Compatibility shall be based on characteristics which can impact adjacent or surrounding uses including type of use, height, appearance, aesthetics, odors, noise, smoke, dust, vibration, traffic, sanitation, drainage, fire risk, environmental impacts, maintenance of public infrastructure, availability of potable water and sanitary sewer, and other necessary public services. Please offer statements on how the proposed rezoning is compatible with adjacent and surrounding land uses.

RESPONSE: The requested zoning change is not incompatible with the airport. The Airport Noise Study demonstrates that noise will be less than the minimum required by FAA regulations. The proposed limiting policy that is part of the FLUM amendment application will ensure appropriate buffering between the Airport and the multifamily uses and surrounding properties. None of the other factors mentioned in this comment are relevant. It has already been demonstrated in the above that the proposal will reduce traffic. The City of Palm Coast has confirmed that it will be the water and sewer utility provider and has capacity to serve the proposed project.

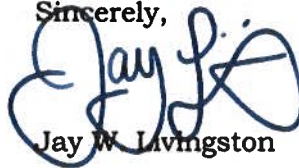
6. The requested zoning shall not be approved if any of the proposed traffic flow of the permitted uses have an unreasonable impact on the contiguous and surrounding area; or if the proposed traffic has an unreasonable impact upon the projected wear and tear of any public roadway designed to carry lighter traffic than proposed with the rezoning; or if the proposed traffic results in an unreasonable danger to the safety of other traffic, pedestrians, and bicyclists.

Provide supporting statements that the proposed zoning will not have an unreasonable impact on the contiguous and surrounding area, the proposed traffic and will not result in unreasonable danger to the safety of the pedestrians and bicyclists.

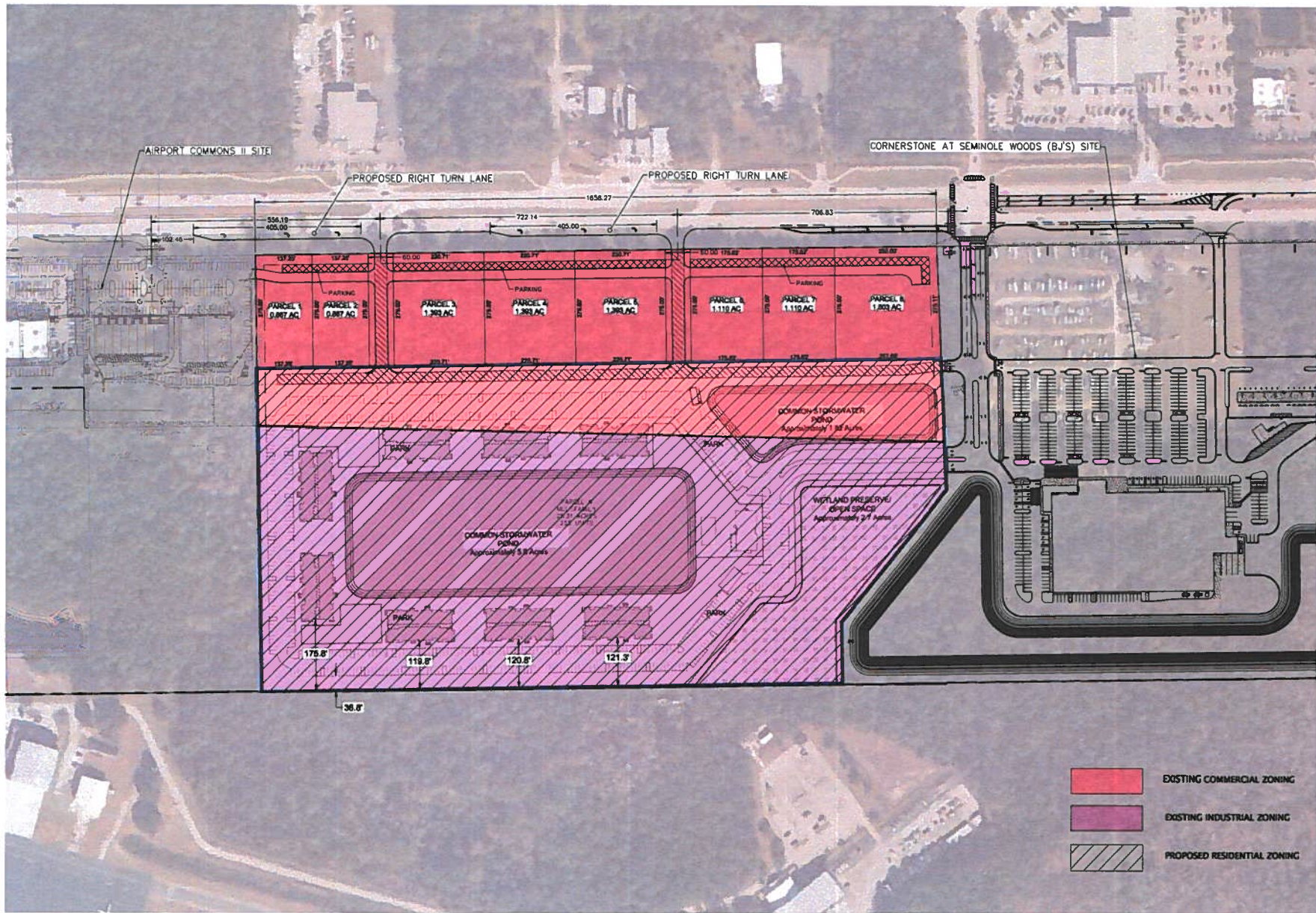
RESPONSE: As noted above, the proposed rezoning will result in a significant reduction in traffic impacts from what would otherwise be generated by the present Industrial Future Land Use and I (Industrial) zoning. This will also reduce conditions that may result in unreasonable danger to the safety of pedestrians and bicyclists in the immediate and surrounding areas. Appropriate multi-modal improvements will be implemented during the site planning process to ensure safe pedestrian ingress and egress from the site.

Contact me if you have any questions, comments or require additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jay Livingston", with a stylized flourish at the end.

Jay W. Livingston



- EXISTING COMMERCIAL ZONING
- EXISTING INDUSTRIAL ZONING
- PROPOSED RESIDENTIAL ZONING

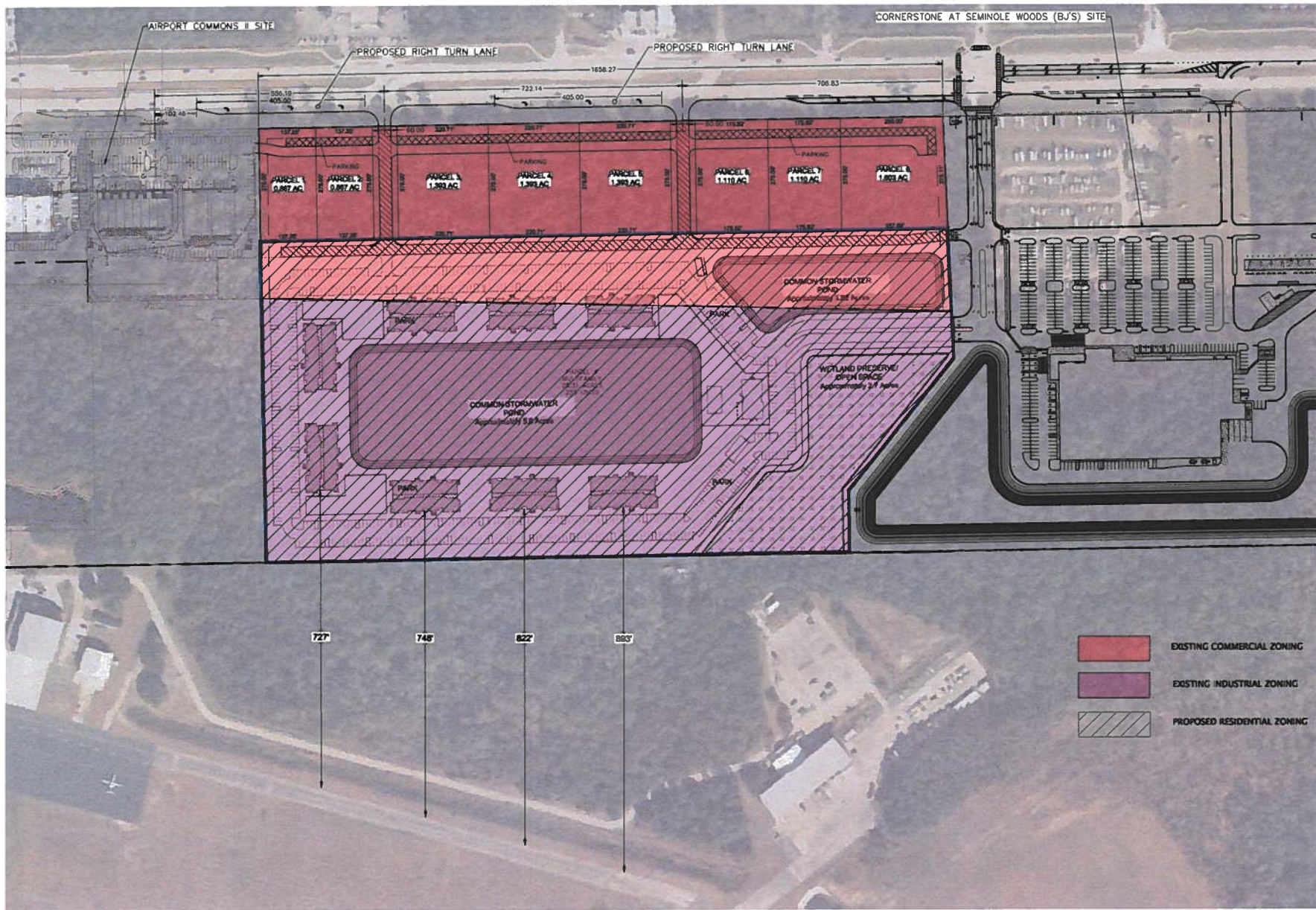
ALAN ENGINEERING GROUP, INC.
 10000 W. 11TH AVENUE
 SUITE 100
 DENVER, CO 80231
 TEL: 303.733.7444
 FAX: 303.733.7447

**FLAGLER AIRPORT 100 COMMERCIAL
 FLAGLER COUNTY
 REZONING EXHIBIT**

NO.	DATE	REVISIONS	BY

DESIGNED BY	CHECKED BY	DATE	SCALE
PROJECT NO.	DATE	SCALE	BY

SHEET
C001



ALANN ENGINEERING
GROUP, INC.
CONSULTING ENGINEERS
880 AIRPORT ROAD, SUITE 110
FLAGLER COUNTY, FL 32114
TEL: (386) 875-7449
FAX: (386) 875-3857

A

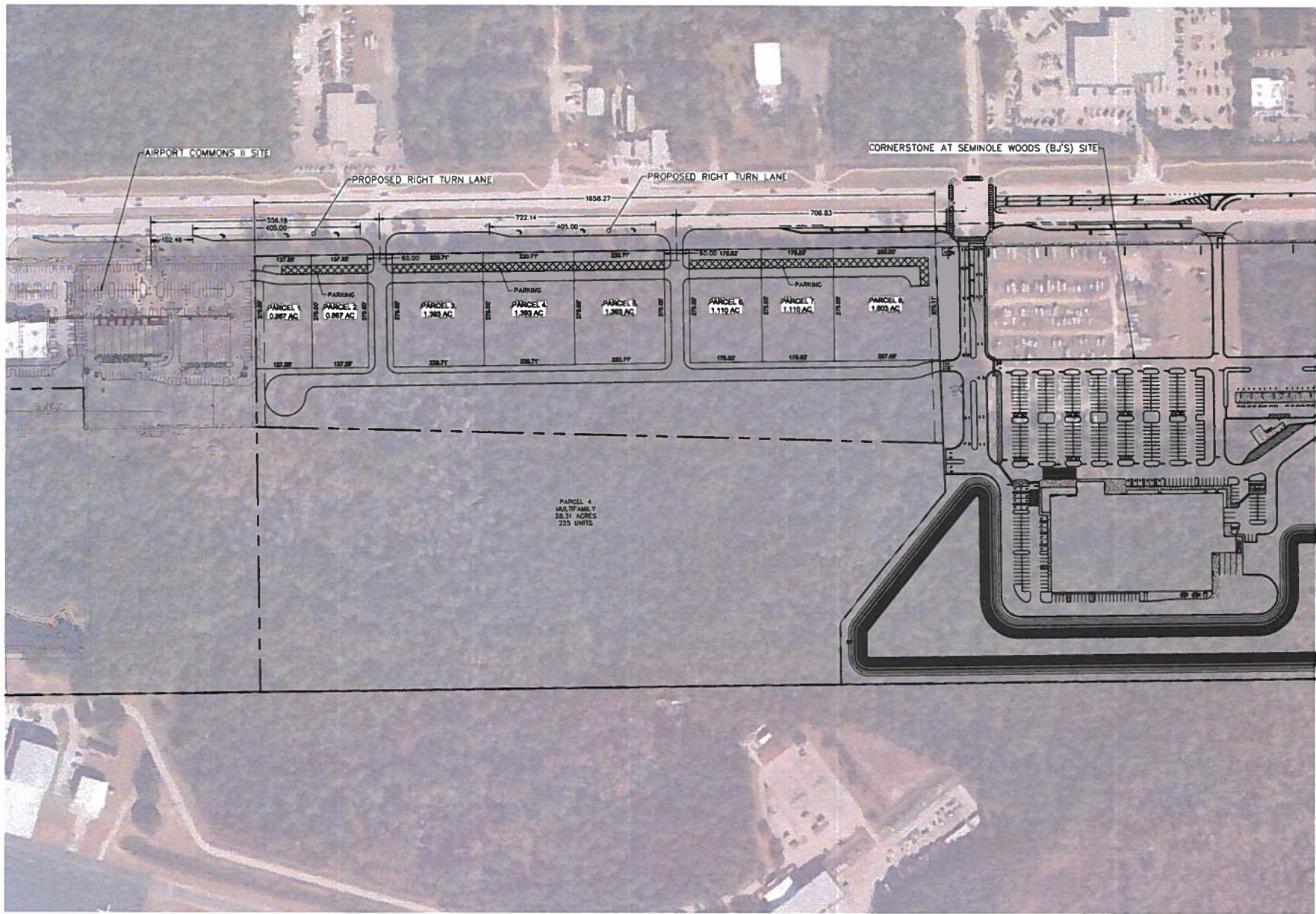
FLAGLER AIRPORT 100 COMMERCIAL
FLAGLER COUNTY
AIRPORT RUNWAY

NO.	DATE	REVISION	BY

DATE	1/1/2021	SCALE	AS SHOWN
FILE	211-1-1	PROJECT	211-1-1
DESIGNED	CM	DRAWN BY	JB

2021-1-1-1

SHEET
C001



ALAN ENGINEERING
GROUP, INC.
CERTIFICATE NO. 126478
FLORIDA BOARD OF PROFESSIONAL ENGINEERS
JULY 1, 2015
JULY 1, 2015
JULY 1, 2015

FLAGLER AIRPORT 100 COMMERCIAL
FLAGLER COUNTY
ANNEXATION EXHIBIT

NO.	DATE	REVISION	BY

DESCRIPTION	DATE	FILE	SCALE	AS NOTED

--

SHEET
C001



TRAFFIC MEMORANDUM FLAGLER AIRPORT 100 PROPERTY

The Flagler 100 property consists of 38.811 acres located on SR 100 west of Seminole Woods Parkway in front of the Flagler Executive Airport. It is proposed that this site be subdivided into commercial development along the SR 100 frontage on the north and multifamily residential recreational on the south. The residential development will occupy 28 acres and require a future land use amendment and rezoning to develop 280 apartment units (10 units per acre). The current zoning of the property is industrial which allows for general commercial development with a building coverage of 35 percent. This would equate a retail commercial development of 426,888 square feet ($28 \times 43,560 \times 0.35$).

Trip Generation

The trip generation of the 28 acres under the existing and proposed zoning categories was calculated with the use of data from the 11th Edition of the Institute of Transportation Engineers (ITE) Manual. The calculation is summarized in **Table 1** and the trip generation worksheets are attached.

**Table 1
Trip Generation Summary**

ITE Code	Land Use	Size	Daily		A.M. Peak Hour				P.M. Peak Hour			
			Rate	Trips	Rate	Enter	Exit	Total	Rate	Enter	Exit	Total
Existing Land Use/Zoning												
820	Retail Commercial (Shopping Center >150 KSF)	426.88	37.01	15,799	0.84	223	136	359	3.40	696	755	1,451
Pass by- trips (Retail 19%)				3,002	--	42	26	68	--	132	144	276
New Net Trips				12,797	--	181	110	291	--	564	611	1,175
Proposed Land Use/Rezoning												
220	Multi-family Residential	280 DU	6.74	1,887	0.40	27	85	112	0.51	90	53	143
Trip Increase (+)/Decrease (-) Due to Land Use Change/Rezone				-10,910	--	-154	-25	-179	--	-474	-558	-1,032

**TPD#5723
September 8, 2022**

Trip Generation Comparison

As can be seen in **Table 1**, the site's trip generation under the existing land use/zoning is far greater than the trip generation under the proposed land use/rezoning. The proposed change in land use and rezoning will result 10,910 less daily trips, 179 less AM peak hour trips and 1,032 less PM peak hour trips to be added to the area roadways.

Conclusions

The proposed land use amendment will result in a substantial reduction in the site's trip generation. There will be less daily and AM/PM peak hour trips added to the area roadways resulting in improved Levels of Service.

Trip Generation Worksheets

Shopping Center (>150k) (820)

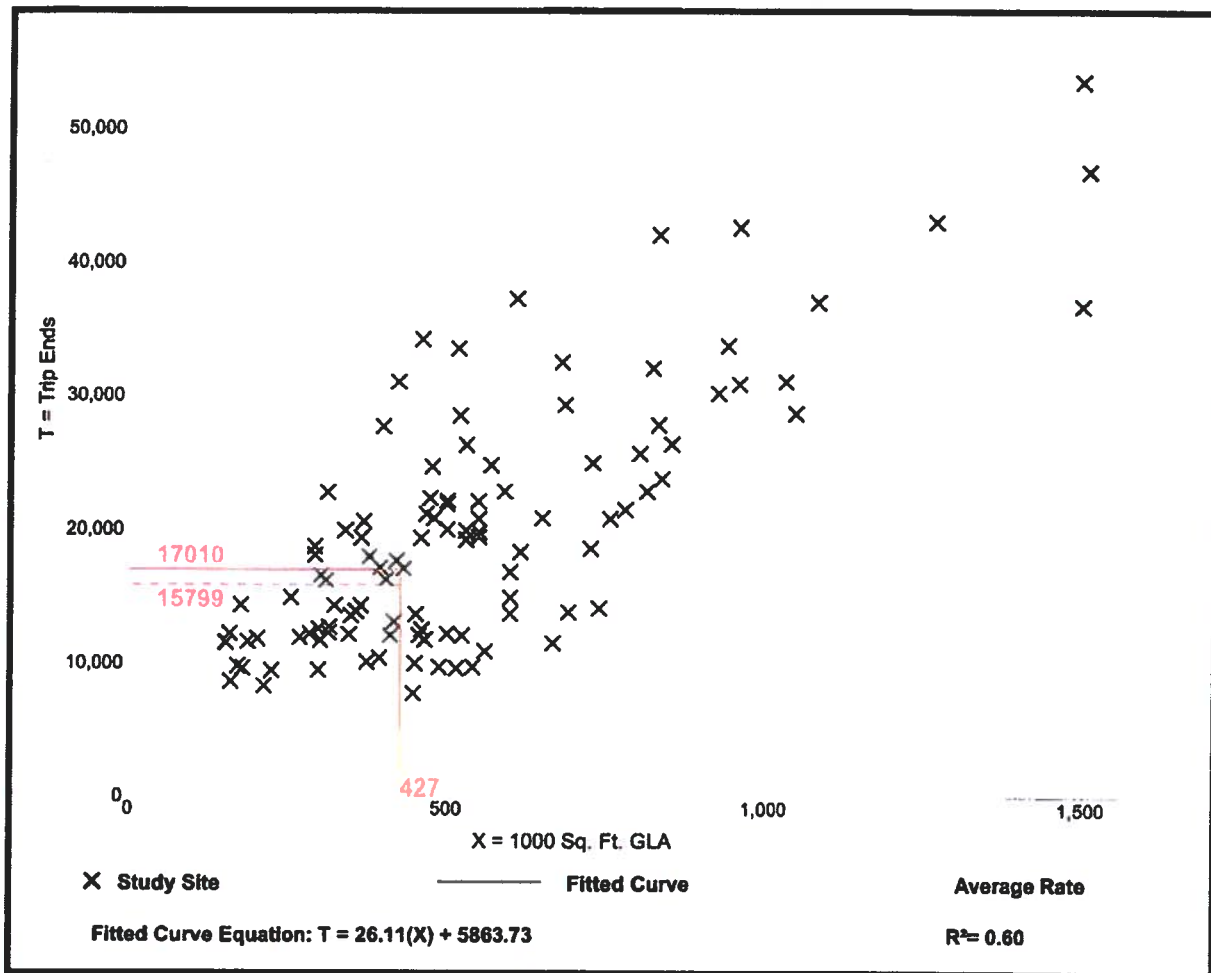
Vehicle Trip Ends vs: 1000 Sq. Ft. GLA
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 108
Avg. 1000 Sq. Ft. GLA: 538
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
37.01	17.27 - 81.53	12.79

Data Plot and Equation



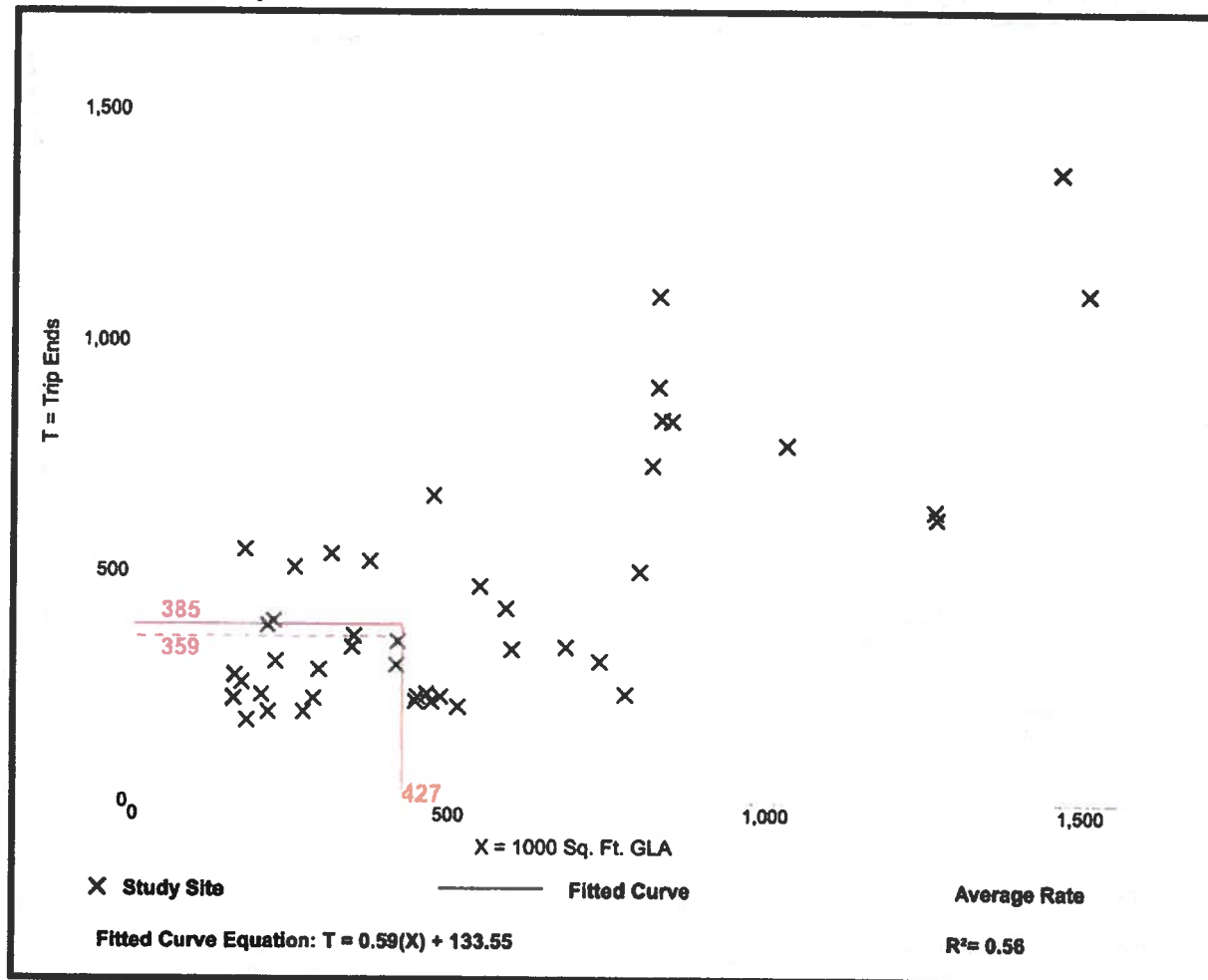
Shopping Center (>150k) (820)

Vehicle Trip Ends vs: 1000 Sq. Ft. GLA
 On a: Weekday,
 Peak Hour of Adjacent Street Traffic,
 One Hour Between 7 and 9 a.m.
 Setting/Location: General Urban/Suburban
 Number of Studies: 44
 Avg. 1000 Sq. Ft. GLA: 546
 Directional Distribution: 62% entering, 38% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
0.84	0.30 - 3.11	0.42

Data Plot and Equation



Shopping Center (>150k) (820)

Vehicle Trip Ends vs: 1000 Sq. Ft. GLA

On a: Weekday,

Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 126

Avg. 1000 Sq. Ft. GLA: 581

Directional Distribution: 48% entering, 52% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate

3.40

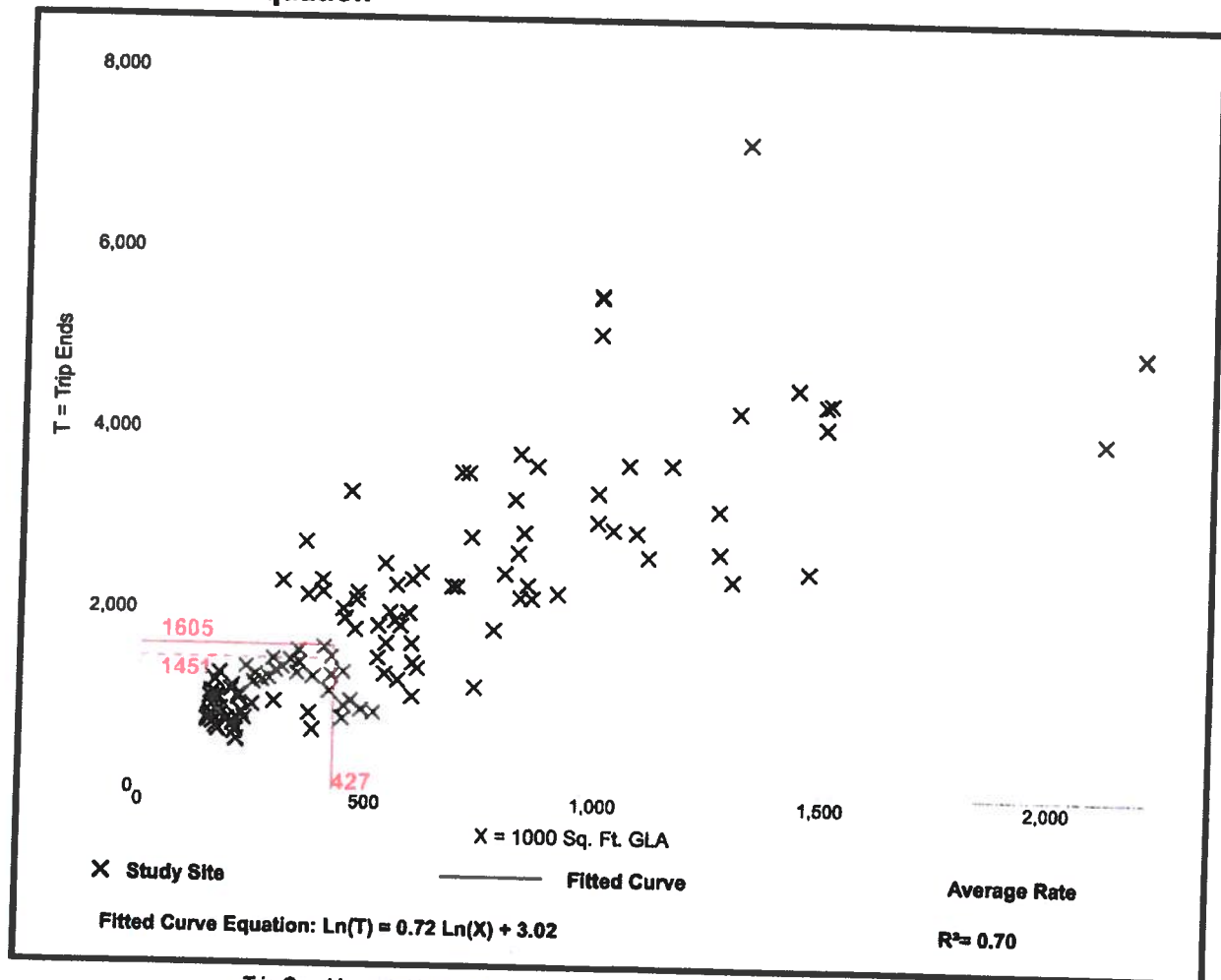
Range of Rates

1.57 - 7.58

Standard Deviation

1.26

Data Plot and Equation



Vehicle Pass-By Rates by Land Use

Source: ITE Trip Generation Manual , 11th Edition

Land Use Code	820								
Land Use	Shopping Center (> 150k)								
Setting	General Urban/Suburban								
Time Period	Weekday PM Peak Period								
# Data Sites	8 Sites with GLA between 150 and 300k				16 Sites with GLA between 300 and 900k				
Average Pass-By Rate	29% for Sites with GLA between 150 and 300k				19% for Sites with GLA between 300 and 900k				
	Pass-By Characteristics for Individual Sites								
GLA (000)	State or Province	Survey Year	# Interviews	Pass-By Trip (%)	Non-Pass-By Trips			Adj Street Peak Hour Volume	Source
					Primary (%)	Diverted (%)	Total (%)		
213	Florida	1990	312	28	31	41	72	—	33
225	Illinois	1994	264	35	32	33	65	1970	24
227.9	Kentucky	1993	—	34	35	31	66	—	34
235	Kentucky	1993	211	35	29	36	65	2593	2
255	Iowa	1994	222	23	38	39	77	3706	24
256	Connecticut	1994	208	27	51	22	73	3422	24
293	Illinois	1994	282	24	70	6	76	4606	13
294	Pennsylvania	1994	213	24	48	18	76	4055	24
350	Massachusetts	1994	224	18	45	37	82	2112	24
361	Virginia	1994	315	17	54	29	83	2034	24
375	North Carolina	1994	214	29	48	23	71	2053	24
413	Texas	1994	228	28	51	21	72	589	24
418	Maryland	1994	281	20	50	30	80	5610	24
450	California	1994	321	23	49	28	77	2787	24
476	Washington	1994	234	25	53	22	75	3427	24
488	Texas	1994	257	12	75	13	88	1094	13
560	Virginia	1994	437	19	49	32	81	3051	24
581	Colorado	1994	296	18	53	29	82	2939	24
598	Colorado	1994	205	17	55	28	83	3840	24
633	Texas	1994	257	10	64	26	90	—	24

Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 22
Avg. Num. of Dwelling Units: 229
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate

6.74

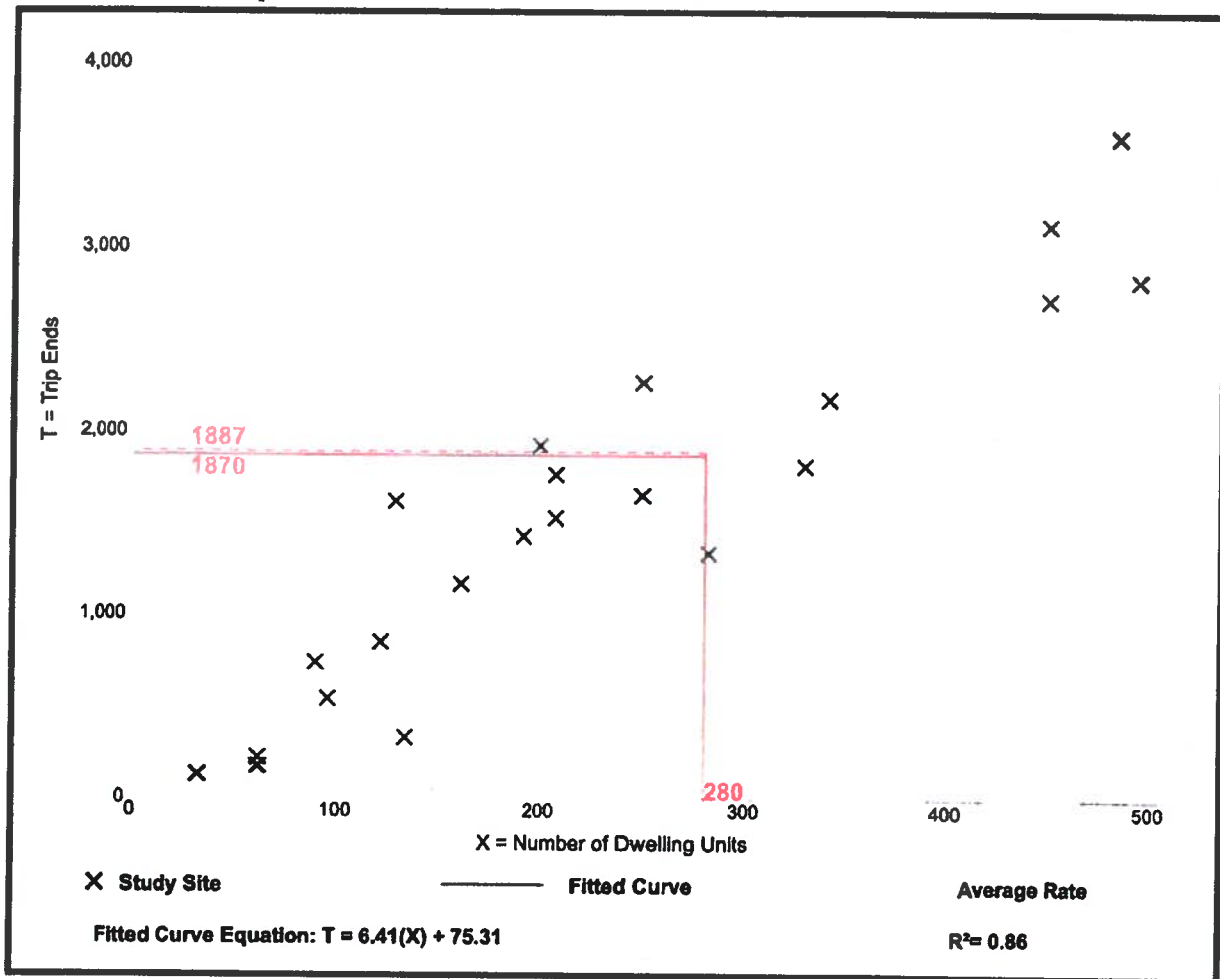
Range of Rates

2.46 - 12.50

Standard Deviation

1.79

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,
One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 49

Avg. Num. of Dwelling Units: 249

Directional Distribution: 24% entering, 76% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate

0.40

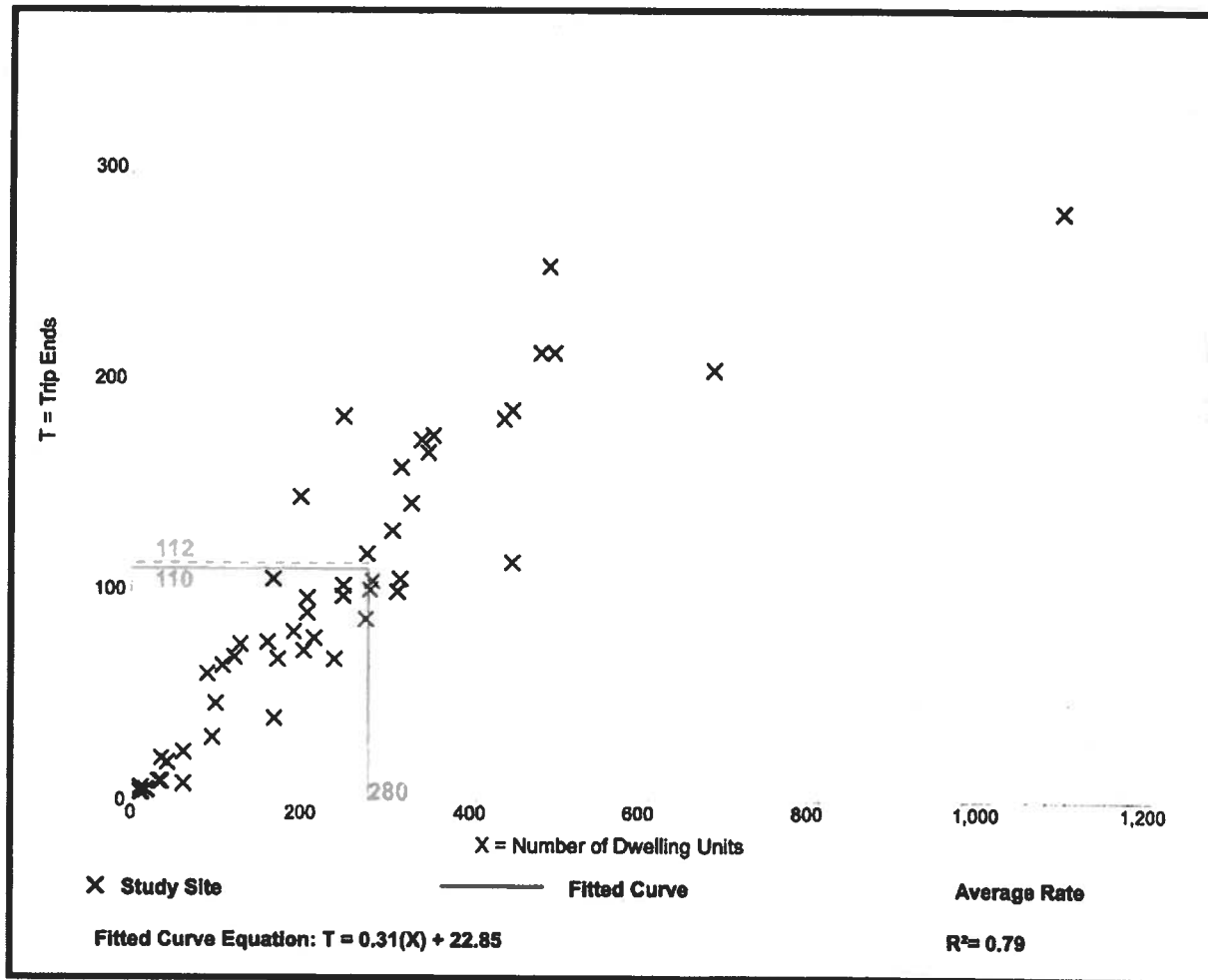
Range of Rates

0.13 - 0.73

Standard Deviation

0.12

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 59

Avg. Num. of Dwelling Units: 241

Directional Distribution: 63% entering, 37% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate

0.51

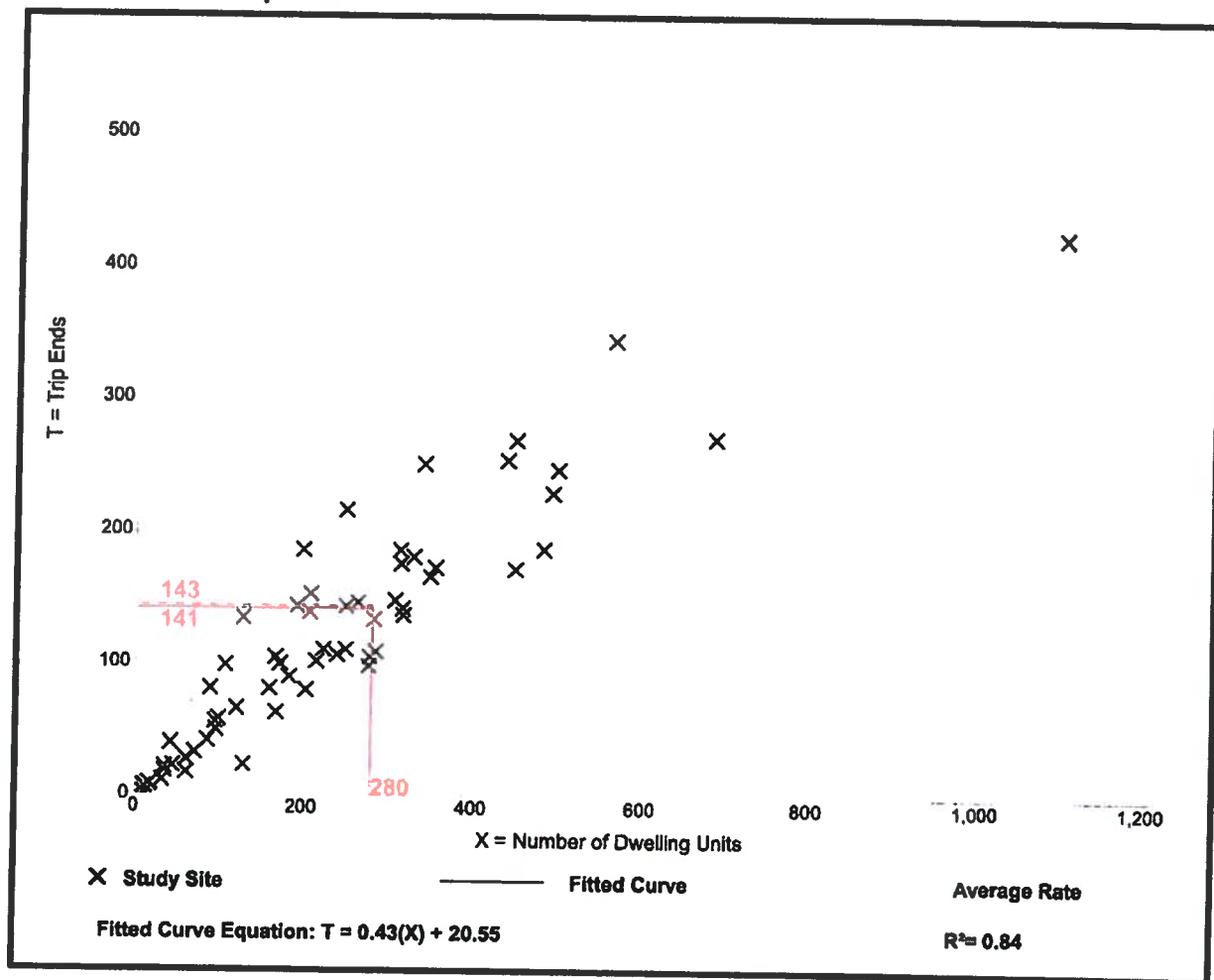
Range of Rates

0.08 - 1.04

Standard Deviation

0.15

Data Plot and Equation





AIRPORT NOISE STUDY

**Flagler Executive Airport
Gardner SR 100 Site
Palm Coast, Florida**

for:

**Tidelands Investments, LLC
5851 Timuquana Road #301
Jacksonville, Florida 32210**

Prepared by:


Robert M. Lilkenney, Principal Consultant
RML Acoustics, LLC
14688 NW 150th Lane
Alachua, Florida 32615
www.rmlacoustics.com

December 10, 2022

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I. INTRODUCTION

This report contains the results of a study of noise levels from the Flagler Executive Airport (hereinafter “Airport”) on the Gardner SR 100 site adjacent to the Airport runway in Palm Coast, Florida. The purpose of the study was to document the daily sound levels on site for seven days at the approximate location of proposed residential structures nearest the runway on the east and west ends of the site and to compare the results to a Day-Night Level (DNL) of 65 dBA, which, when reported as a yearly daily average sound level due to aircraft activity, is the level below which the Federal Aviation Administration considers residential developments compatible with airports.

II. BACKGROUND

The project site consists of one parcel of vacant land that is bounded by the Airport property on the south side and Highway 100 on the north side. The proposed future development of the project site consists of eight apartment buildings and a clubhouse surrounding a 3.7 acre pond, as shown in a mark-up of the Wetland Delineation Assessment exhibit in Figure 1. Due to the proximity of the project to the Airport, a site noise study was conducted to document the sound levels at approximate worst-case locations on site (Locations SE and SW in Figure 1) where the apartment buildings nearest the airport runway on each end of the site would be constructed.

III. EXECUTIVE SUMMARY

1. The Federal Aviation Administration (FAA) uses the Day-Night Sound Level (DNL, also L_{dn}) as the preferred descriptor for evaluating aircraft noise impacts and land use compatibility. Per Part 150, *Airport Noise Compatibility Planning*, of the Code of Federal Regulations (CFR), a residential land use is compatible with aircraft noise at a yearly DNL less than 65 dBA.
2. Sound levels from all noise sources measured for seven consecutive days, from Sunday, November 27, 2023, through Saturday, December 3, 2022, at location SE were between 55 and 59 dBA and at location SW were between 54 and 58 dBA. These values include the contribution of non-airport related noise sources, including traffic noise from Highway 100 and insect noise, but are still below a DNL of 65 dBA by at least 6 to 7 dBA and as much as 10 to 11 dBA.
3. An analysis of the measured and recorded sounds on site showed that the DNL attributable to just plane-related events was between 42 and 52 dBA at location SE and between 44 and 50 dBA at location SW, which are well below the FAA’s DNL criterion of 65 dBA. For each day of measurements and at each location, the calculated contribution of sounds from the plane-related events to the overall DNL was 0 to 1 dBA.
4. Based on the sound levels measured on the project site for seven consecutive days, including days with over 300 plane-related events, and using FAA criteria for land use compatibility, the proposed residential land use on the project site as described in Section II, *Background*, is compatible with the Airport, and would remain so in the future, provided the airport does not expand to include larger/louder airplanes or significantly increase the nighttime (10 pm to 7 am) air traffic beyond the current average of two planes per day flown between 10 pm and 7 am.

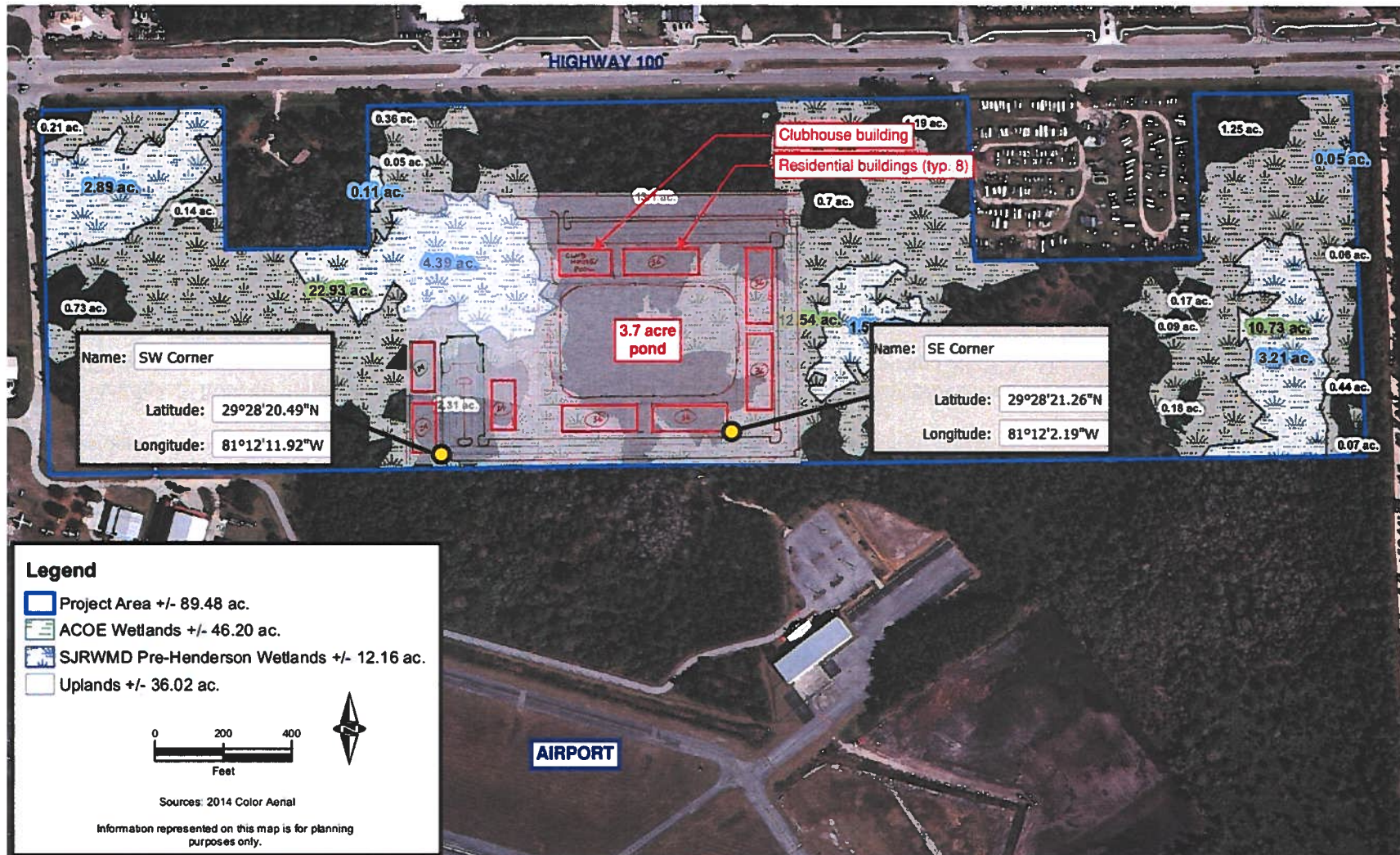


Figure 1. Aerial and conceptual site plan showing the proposed project site, Airport property to the south, Highway 100 to the north, and noise monitoring locations SE and SW, including their GPS coordinates.

IV. NOISE IMPACT CRITERIA

The purpose of the study was to evaluate the compatibility of the proposed residential development with the nearby Airport from a noise impact standpoint. The FAA uses the Day-Night Sound Level (DNL, also L_{dn}) as the preferred descriptor for evaluating aircraft noise impacts and land use compatibility. The DNL is a 24-hour measure that accounts for the moment-to-moment fluctuations in A-weighted sound levels due to all sound sources for 24 hours, combined. It includes a 10-dB penalty for all sounds occurring between 10 pm and 7 am. It is our understanding that an FAA Part 150 Noise Study, which would result in the development of noise contours for the areas surrounding the Airport, does not exist. Per Part 150, *Airport Noise Compatibility Planning*, of the Code of Federal Regulations (CFR), a residential land use is compatible if the yearly DNL values from the Airport are less than 65 dBA. This is the criterion used in this report to evaluate the compatibility of the proposed residential land use for the project site with the existing Airport.

V. NOISE STUDY METHOD

Overall Method

The overall method for the Noise Study included the following elements.

1. Install two long-term noise monitoring stations on site to log the daily DNL values and to record individual aircraft flyovers and other events that exceeded specific sound levels for post-measurement analysis and identification of events.
2. Using the event data, calculate the contribution of the airport related sounds to the overall DNL.
3. Compare the results with the FAA criterion of a DNL less than 65 dBA.

Sound Level Measurement Times, Locations and Equipment

Noise monitoring stations were installed on site to measure sound levels and record events at two sites, labeled as SE and SW, at the locations shown in Figure 1, from 12 am on Sunday, November 27, 2022, through 12 am on Sunday, December 4, 2022. At location SW, the noise monitoring station ran out of power at 11:25 PM on Saturday, December 3, 2022. The final 35 minutes of ambient noise was estimated to derive the DNL for that day. Since there are no planes flying between 11:25 pm and midnight, the ambient sound levels for the first 25 minutes of the 11 pm hour were used for the last 35 minutes of the 11 pm hour, resulting in no change.

Location SE (See Figure 1) – Location SE was in the approximate location of the southeastern most residential structure currently proposed for the property, approximately 1,000 ft south of Highway 100 and 1,440 ft north of the center of Runway 29, as shown in Figure 2. The constant sound of equipment associated with the cell phone tower just southwest of this location, and insect noise at night, established a baseline sound level of 46 to

50 dBA at all times. Distant traffic sounds on Highway 100, including occasional emergency vehicle sirens and motorcycles, could also be heard at this location. Planes taking off and landing at the airport were audible above the background sound level, with a range of instantaneous maximum (LAFmax) sound levels typically in the 60 to 70 dBA range, with only a few events per day in the 75 to 82 dBA range. For reference, a typical riding mower measured at 150 ft has an LAFmax of 65 to 70 dBA.

Location SW (see Figure 1) – Location SW was in the approximate location of the southwestern most residential structures currently proposed for the property, approximately 1,075 ft south of Highway 100 and 1,120 ft north of the center of Runway 29, as shown in Figure 2. Typical ambient sound levels (without planes) at this location were in the 39 to 42 dBA range from approximately 6 am to 6 pm and 49 to 50 dBA range from 6 pm to 6 am (due to insect noise). Distant traffic sounds on Highway 100, including occasional emergency vehicle sirens and motorcycles, could be heard at this location. Planes taking off and landing at the airport were audible above the background sound level, with a range of instantaneous maximum (LAFmax) sound levels typically in the 60 to 70 dBA range, with only a few events per day in the 75 to 83 dBA range.

Sound level measurements were made with Larson Davis 831 Sound Level Meters installed in noise monitoring stations at locations SE (Serial No. 2660) and SW (Serial No. 2520). The meters meet ANSI Standard S1.4 requirements for Type 1 exponential-averaging sound level meters and ANSI Standard S1.43 requirements for Type 1 integrating-averaging sound level meters. The microphones and pre-amplifiers were mounted atop tripods with Larson Davis model EPS2116 Environmental Protection Shrouds (windscreen and bird spike) affixed to the top, at a height of approximately 6 ft above the ground and connected to the sound level meters via extension cables. The meters were installed in weather-proof environmental cases. The meters were calibrated with a Larson Davis CAL200 pistonphone (Serial No. 10472) before the measurements began and were within 0.1 dB of calibration at the completion of the measurements. Calibration certificates for the sound level meters and calibrator are included in Appendix C. The meters were set to calculate the daily DNL and to measure the sound exposure levels (SEL) and record the sounds of all events exceeding 57 dBA for more than 4 seconds at each location. The SELs of plane-related events were used to calculate the DNLs from plane-related events for each day. Figures 3 contain photographs of the noise monitoring stations installed at locations SE and SW.

Definitions:

Decibel: The unit of sound level, expressed as dB.

A-weighted sound level: A sound level to which an A-weighted filter has been applied. The A-weighted filter reduces the value of low frequency sounds from the overall weighted sound level calculation to simulate the way humans perceived the loudness of sounds of low to moderate level.

DNL: The Day-Night Sound Level, a 24-hour measure that accounts for the moment-to-moment fluctuations in A-weighted sound levels due to all sound sources for 24 hours, combined. It includes a 10-dB penalty for all sounds occurring between 10 pm and 7 am. Expressed as dB but is actually dBA.

LAeq: The A-weighted equivalent continuous sound level, expressed in dBA. The equivalent continuous sound level is the level of a steady sound that has the same integrated energy level as the measured fluctuating sound over the same time period. Abbreviated as Leq if dBA is given.

Maximum Sound Level (Lmax): The maximum sound level that occurs during a measurement period when measured using either a Slow (LSmax) or Fast (LFmax) time constant on the sound level meter, expressed in dB. For A-weighted sound levels measured with a Fast time constant, LAFmax is used.

SEL: The SEL is the sound exposure level, in decibels, and represents the total amount of sound energy from an event measured at a specific location, condensed into a one-second LAeq.

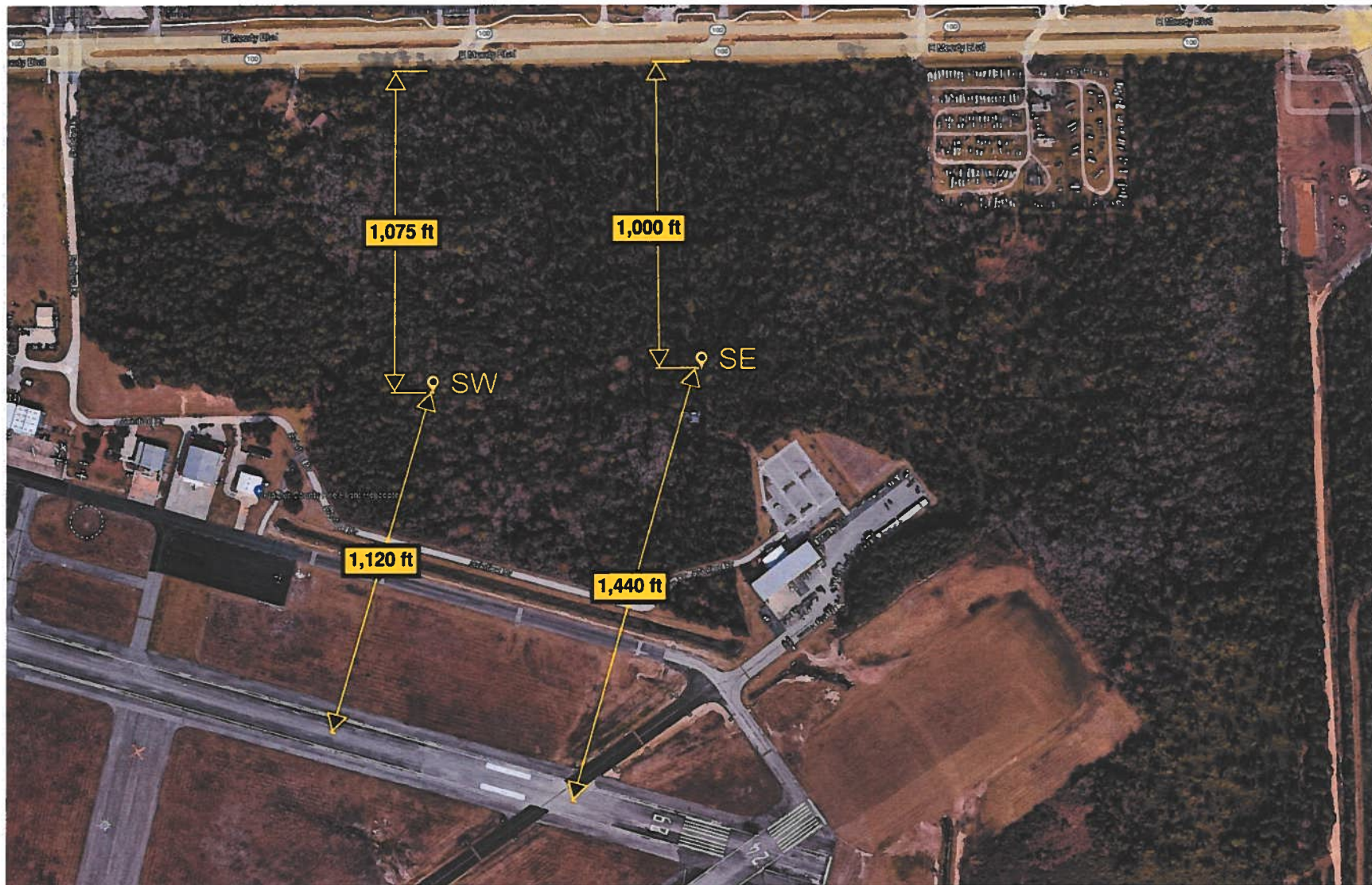


Figure 2. Aerial view of project site and airport showing the distances between to the center of Runway 29 and Highway 100 from Locations SE and SW.



Figure 3. Photographs of the noise monitoring stations at location SE (left) and SW (right).

VI. SOUND LEVEL MEASUREMENT RESULTS AND COMPARISON WITH FAA CRITERION

Table 1 contains a summary of the DNL values measured at locations SE and SW from Sunday, November 27, 2022, through Saturday, December 3, 2022. Also included in the table is the DNL calculated for just plane related events, the DNL from all sources other than the planes, the contribution of plane-related event sounds to the overall DNL and the total number of plane-related events (includes taxiing and other events, not just takeoffs, landings and flyovers) that exceeded 57 dBA for at least 4 seconds, as well as the number of plane-related events that occurred during the nighttime (10 pm to 7 am).

Table 1. Summary of DNLs measured on site.

Date	DNL from all Sources (in dBA)		DNL from Plane- Related Events Only (in dBA)		DNL from Non-Plane Sources (in dBA)		Contribution of Plane- Related Events to Overall DNL (in dBA)		# of Plane-Related Events above Threshold Level (# of nighttime events)	
	SE	SW	SE	SW	SE	SW	SE	SW	SE	SW
Sun., November 27, 2022	59	58	47	44	59	58	0	0	37 (1)	61 (1)
Mon., November 28, 2022	55	56	42	48	55	55	0	1	64 (1)	237 (1)
Tues., November 29, 2022	57	56	53	49	56	55	1	1	337 (2)	319 (2)
Wed., November 30, 2022	55	54	46	45	55	53	0	1	93 (1)	82 (0)
Thur., December 1, 2022	57	56	51	48	56	55	1	1	225 (2)	188 (3)
Fri., December 2, 2022	57	56	50	50	56	55	1	1	251 (1)	243 (4)
Sat., December 3, 2022	57	54	52	47	55	53	0	1	325 (5)	275 (2)
7-Day Average	57	56	49	47	56	55	0.4	0.9	190 (2)	200 (2)

The table shows that the DNLs from all sources measured at Locations SE and SW for each day were well below 65 dBA and therefore, if the same holds true for the entire year, compatible with the FAA criterion of less than 65 dBA. More importantly, the calculated DNLs attributable to just plane-related events were between 42 and 53 dBA at location SW and between 44 and 50 dBA at location SE and adding no more than 1 dBA to the daily DNLs. This means that if the other ambient noise sources contributing to the background noise, such as insect noise at night and traffic noise during the day, the DNLs due to the Airport would be below the FAA threshold of 65 dBA by at least 12 dB at location SE and 15 dB at location SW if the days in which the sound levels were measured are representative of typical days.

The DNL with the greatest value due to only plane-related events was 53 dBA. This occurred on Tuesday, November 29, 2022, a day when there were over 337 plane-related events. With nearly all plane-related events occurring between 7 am and 10 pm, that is an average of 22 events per hour, or one event nearly every 3 minutes, so this likely represents a near maximum condition for the airport as it currently exists. For the LDN of 53 dBA to increase to 65 dBA due to additional air traffic using the same mix of planes during the daytime hours would require the number of planes in one day to increase to over 3,500, or one event every 15 seconds, which is not possible.

Finally, the table shows that there was an average of only two plane-related events per day that occurred during nighttime hours from 10 pm to 7 am. In most instances, these events occurred between 10 pm and midnight or between 6 am and 7 am.

VII. CONCLUSION

Based on the sound levels measured on the project site for seven consecutive days, and using FAA criteria for land use compatibility, the proposed residential land use on the project site as described in Section II, *Background*, is compatible with the Airport, and would likely remain so in the future, provided the airport does not expand to include larger/louder commercial airplanes or does not significantly increase the nighttime (10 pm to 7 am) air traffic beyond the current average of two planes per day flown between 10 pm and 7 am.

APPENDIX A

EQUIPMENT CALIBRATION CERTIFICATES

Calibration Certificate

Certificate Number 2022007061

Customer:

RML Acoustics LLC

Model Number CAL200

Serial Number 10472

Test Results Pass

Initial Condition Adjusted

Description Larson Davis CAL200 Acoustic Calibrator

Procedure Number D0001.8386

Technician Scott Montgomery

Calibration Date 3 Jun 2022

Calibration Due

Temperature 23 °C ± 0.3 °C

Humidity 32 %RH ± 3 %RH

Static Pressure 100.8 kPa ± 1 kPa

Evaluation Method The data is acquired by the insert voltage calibration method using the reference microphone's open circuit sensitivity. Data reported in dB re 20 µPa.

Compliance Standards Compliant to Manufacturer Specifications per D0001.8190 and the following standards:
IEC 60942:2017 ANSI S1.40-2006

Issuing lab certifies that the instrument described above meets or exceeds all specifications as stated in the referenced procedure (unless otherwise noted). It has been calibrated using measurement standards traceable to the SI through the National Institute of Standards and Technology (NIST), or other national measurement institutes, and meets the requirements of ISO/IEC 17025:2017. Test points marked with a ‡ in the uncertainties column do not fall within this laboratory's scope of accreditation.

The quality system is registered to ISO 9001:2015.

This calibration is a direct comparison of the unit under test to the listed reference standards and did not involve any sampling plans to complete. No allowance has been made for the instability of the test device due to use, time, etc. Such allowances would be made by the customer as needed.

The uncertainties were computed in accordance with the ISO Guide to the Expression of Uncertainty in Measurement (GUM). A coverage factor of approximately 2 sigma (k=2) has been applied to the standard uncertainty to express the expanded uncertainty at approximately 95% confidence level.

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Standards Used

Description	Cal Date	Cal Due	Cal Standard
Agilent 34401A DMM	08/06/2021	08/06/2022	001021
Larson Davis Model 2900 Real Time Analyzer	03/31/2022	03/31/2023	001051
Microphone Calibration System	02/23/2022	02/23/2023	005446
1/2" Preamplifier	08/26/2021	08/26/2022	006506
Larson Davis 1/2" Preamplifier 7-pin LEMO	08/09/2021	08/09/2022	006507
1/2 inch Microphone - RI - 200V	09/23/2021	09/23/2022	006511
Hart Scientific 2626-H Temperature Probe	02/04/2021	08/04/2022	006767
Pressure Sensor	03/15/2022	12/14/2022	PCB0087008

LARSON DAVIS - A PCB PIEZOTRONICS DIV.
1681 West 820 North
Provo, UT 84601, United States
716-684-0001



LARSON DAVIS
A PCB DIVISION

Output Level

Nominal Level [dB]	Pressure [kPa]	Test Result [dB]	Lower limit [dB]	Upper limit [dB]	Expanded Uncertainty [dB]	Result
114	101.1	114.00	113.80	114.20	0.14	Pass
94	100.8	94.01	93.80	94.20	0.15	Pass

-- End of measurement results--

Frequency

Nominal Level [dB]	Pressure [kPa]	Test Result [Hz]	Lower limit [Hz]	Upper limit [Hz]	Expanded Uncertainty [Hz]	Result
114	101.1	1,000.10	993.00	1,007.00	0.20	Pass
94	100.8	1,000.12	993.00	1,007.00	0.20	Pass

-- End of measurement results--

Total Harmonic Distortion + Noise (THD+N)

Nominal Level [dB]	Pressure [kPa]	Test Result [%]	Lower limit [%]	Upper limit [%]	Expanded Uncertainty [%]	Result
114	101.1	0.47	0.00	2.00	0.25 ‡	Pass
94	100.8	0.45	0.00	2.00	0.25 ‡	Pass

-- End of measurement results--

Level Change Over Pressure

Tested at: 114 dB, 23 °C, 32 %RH

Nominal Pressure [kPa]	Pressure [kPa]	Test Result [dB]	Lower limit [dB]	Upper limit [dB]	Expanded Uncertainty [dB]	Result
108.0	108.0	-0.02	-0.25	0.25	0.04 ‡	Pass
101.3	101.3	0.00	-0.25	0.25	0.04 ‡	Pass
92.0	91.9	0.02	-0.25	0.25	0.04 ‡	Pass
83.0	83.1	0.02	-0.25	0.25	0.04 ‡	Pass
74.0	73.8	0.01	-0.25	0.25	0.04 ‡	Pass
65.0	65.2	-0.03	-0.25	0.25	0.04 ‡	Pass

-- End of measurement results--

Frequency Change Over Pressure

Tested at: 114 dB, 23 °C, 32 %RH

Nominal Pressure [kPa]	Pressure [kPa]	Test Result [Hz]	Lower limit [Hz]	Upper limit [Hz]	Expanded Uncertainty [Hz]	Result
108.0	108.0	-0.01	-7.00	7.00	0.20 ‡	Pass
101.3	101.3	0.00	-7.00	7.00	0.20 ‡	Pass
92.0	91.9	0.00	-7.00	7.00	0.20 ‡	Pass
83.0	83.1	0.00	-7.00	7.00	0.20 ‡	Pass
74.0	73.8	0.00	-7.00	7.00	0.20 ‡	Pass
65.0	65.2	0.00	-7.00	7.00	0.20 ‡	Pass

-- End of measurement results--

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Certificate Number 2022007061

Total Harmonic Distortion + Noise (THD+N) Over Pressure

Tested at: 114 dB, 23 °C, 32 %RH

Nominal Pressure [kPa]	Pressure [kPa]	Test Result [%]	Lower limit [%]	Upper limit [%]	Expanded Uncertainty [%]	Result
108.0	108.0	0.49	0.00	2.00	0.25 ‡	Pass
101.3	101.3	0.48	0.00	2.00	0.25 ‡	Pass
92.0	91.9	0.44	0.00	2.00	0.25 ‡	Pass
83.0	83.1	0.42	0.00	2.00	0.25 ‡	Pass
74.0	73.8	0.40	0.00	2.00	0.25 ‡	Pass
65.0	65.2	0.40	0.00	2.00	0.25 ‡	Pass

-- End of measurement results--

Signatory: Scott Montgomery

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Provo, UT 84601, United States
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A PCB DIVISION

Initial Assessment

Certificate Number 2022007060

Customer:

RML Acoustics LLC

Model Number CAL200

Serial Number 10472

Test Results Pass

Initial Condition As Received

Description Larson Davis CAL200 Acoustic Calibrator

Procedure Number D0001.8386

Technician Scott Montgomery

Calibration Date 3 Jun 2022

Calibration Due

Temperature 23 °C ± 0.3 °C

Humidity 32 %RH ± 3 %RH

Static Pressure 101.2 kPa ± 1 kPa

Evaluation Method The data is acquired by the insert voltage calibration method using the reference microphone's open circuit sensitivity. Data reported in dB re 20 µPa.

Compliance Standards Compliant to Manufacturer Specifications per D0001.8190 and the following standards:
IEC 60942:2017 ANSI S1.40-2006

Issuing lab certifies that the instrument described above meets or exceeds all specifications as stated in the referenced procedure (unless otherwise noted). It has been calibrated using measurement standards traceable to the SI through the National Institute of Standards and Technology (NIST), or other national measurement institutes, and meets the requirements of ISO/IEC 17025:2017. Test points marked with a ‡ in the uncertainties column do not fall within this laboratory's scope of accreditation.

The quality system is registered to ISO 9001:2015.

This calibration is a direct comparison of the unit under test to the listed reference standards and did not involve any sampling plans to complete. No allowance has been made for the instability of the test device due to use, time, etc. Such allowances would be made by the customer as needed.

The uncertainties were computed in accordance with the ISO Guide to the Expression of Uncertainty in Measurement (GUM). A coverage factor of approximately 2 sigma (k=2) has been applied to the standard uncertainty to express the expanded uncertainty at approximately 95% confidence level.

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Standards Used

Description	Cal Date	Cal Due	Cal Standard
Agilent 34401A DMM	08/06/2021	08/06/2022	001021
Larson Davis Model 2900 Real Time Analyzer	03/31/2022	03/31/2023	001051
Microphone Calibration System	02/23/2022	02/23/2023	005446
1/2" Preamplifier	08/26/2021	08/26/2022	006506
Larson Davis 1/2" Preamplifier 7-pin LEMO	08/09/2021	08/09/2022	006507
1/2 inch Microphone - RI - 200V	09/23/2021	09/23/2022	006511
Hart Scientific 2626-H Temperature Probe	02/04/2021	08/04/2022	006767
Pressure Sensor	03/15/2022	12/14/2022	PCB0087008

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Provo, UT 84601, United States

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Output Level

Nominal Level [dB]	Pressure [kPa]	Test Result [dB]	Lower limit [dB]	Upper limit [dB]	Expanded Uncertainty [dB]	Result
114	101.3	114.10	113.80	114.20	0.14	Pass
94	101.2	94.11	93.80	94.20	0.15	Pass

-- End of measurement results--

Frequency

Nominal Level [dB]	Pressure [kPa]	Test Result [Hz]	Lower limit [Hz]	Upper limit [Hz]	Expanded Uncertainty [Hz]	Result
114	101.3	1,000.09	993.00	1,007.00	0.20	Pass
94	101.2	1,000.10	993.00	1,007.00	0.20	Pass

-- End of measurement results--

Total Harmonic Distortion + Noise (THD+N)

Nominal Level [dB]	Pressure [kPa]	Test Result [%]	Lower limit [%]	Upper limit [%]	Expanded Uncertainty [%]	Result
114	101.3	0.47	0.00	2.00	0.25 ‡	Pass
94	101.2	0.45	0.00	2.00	0.25 ‡	Pass

-- End of measurement results--

Level Change Over Pressure

Tested at: 114 dB, 23 °C, 32 %RH

Nominal Pressure [kPa]	Pressure [kPa]	Test Result [dB]	Lower limit [dB]	Upper limit [dB]	Expanded Uncertainty [dB]	Result
108.0	108.0	-0.02	-0.25	0.25	0.04 ‡	Pass
101.3	101.3	0.00	-0.25	0.25	0.04 ‡	Pass
92.0	91.9	0.02	-0.25	0.25	0.04 ‡	Pass
83.0	83.1	0.02	-0.25	0.25	0.04 ‡	Pass
74.0	73.8	0.01	-0.25	0.25	0.04 ‡	Pass
65.0	65.2	-0.03	-0.25	0.25	0.04 ‡	Pass

-- End of measurement results--

Frequency Change Over Pressure

Tested at: 114 dB, 23 °C, 32 %RH

Nominal Pressure [kPa]	Pressure [kPa]	Test Result [Hz]	Lower limit [Hz]	Upper limit [Hz]	Expanded Uncertainty [Hz]	Result
108.0	108.0	-0.01	-7.00	7.00	0.20 ‡	Pass
101.3	101.3	0.00	-7.00	7.00	0.20 ‡	Pass
92.0	91.9	0.00	-7.00	7.00	0.20 ‡	Pass
83.0	83.1	0.00	-7.00	7.00	0.20 ‡	Pass
74.0	73.8	0.00	-7.00	7.00	0.20 ‡	Pass
65.0	65.2	0.00	-7.00	7.00	0.20 ‡	Pass

-- End of measurement results--

LARSON DAVIS - A PCB PIEZOTRONICS DIV.

1681 West 820 North
Provo, UT 84601, United States
716-684-0001



LARSON DAVIS
A PCB DIVISION

Calibration Certificate

Certificate Number 2021006997

Customer:

RML Acoustics LLC

14688 Northwest 150th Lane

Alachua, FL 32615, United States

Model Number 831
Serial Number 0002520
Test Results Pass
Initial Condition AS RECEIVED same as shipped
Description Larson Davis Model 831
Class 1 Sound Level Meter
Firmware Revision: 2.403

Procedure Number D0001.8384
Technician Jason Grace
Calibration Date 11 Jun 2021
Calibration Due 11 Jun 2023
Temperature 23.69 °C ± 0.25 °C
Humidity 51 %RH ± 2.0 %RH
Static Pressure 86.33 kPa ± 0.13 kPa

Evaluation Method **Tested with:**
Larson Davis PRM831. S/N 019157
PCB 377A02. S/N 52585
Larson Davis CAL200. S/N 6768
Larson Davis CAL291. S/N 0203

Data reported in dB re 20 µPa.

Compliance Standards Compliant to Manufacturer Specifications and the following standards when combined with Calibration Certificate from procedure D0001.8378:

IEC 60651:2001 Type 1
IEC 60804:2000 Type 1
IEC 61252:2002
IEC 61260:2001 Class 1
IEC 61672:2013 Class 1

ANSI S1.4-2014 Class 1
ANSI S1.4 (R2006) Type 1
ANSI S1.11 (R2009) Class 1
ANSI S1.25 (R2007)
ANSI S1.43 (R2007) Type 1

Issuing lab certifies that the instrument described above meets or exceeds all specifications as stated in the referenced procedure (unless otherwise noted). It has been calibrated using measurement standards traceable to the International System of Units (SI) through the National Institute of Standards and Technology (NIST), or other national measurement institutes, and meets the requirements of ISO/IEC 17025:2017.

Test points marked with a ‡ in the uncertainties column do not fall within this laboratory's scope of accreditation.

The quality system is registered to ISO 9001:2015.

This calibration is a direct comparison of the unit under test to the listed reference standards and did not involve any sampling plans to complete. No allowance has been made for the instability of the test device due to use, time, etc. Such allowances would be made by the customer as needed.

The uncertainties were computed in accordance with the ISO Guide to the Expression of Uncertainty in Measurement (GUM). A coverage factor of approximately 2 sigma (k=2) has been applied to the standard uncertainty to express the expanded uncertainty at approximately 95% confidence level.

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Correction data from Larson Davis Model 831 Sound Level Meter Manual, I831.01 Rev O, 2016-09-19

For 1/4" microphones, the Larson Davis ADP024 1/4" to 1/2" adaptor is used with the calibrators and the Larson Davis ADP043 1/4" to

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1681 West 820 North

Provo, UT 84601, United States

716-684-0001



1/2" adaptor is used with the preamplifier.

Calibration Check Frequency: 1000 Hz; Reference Sound Pressure Level: 114 dB re 20 µPa; Reference Range: 0 dB gain

Periodic tests were performed in accordance with procedures from IEC 61672-3:2013 / ANSI/ASA S1.4-2014/Part3.

Pattern approval for IEC 61672-1:2013 / ANSI/ASA S1.4-2014/Part 1 successfully completed by Physikalisch-Technische Bundesanstalt (PTB) on 2016-02-24 certificate number DE-15-M-PTB-0056.

The sound level meter submitted for testing successfully completed the periodic tests of IEC 61672-3:2013 / ANSI/ASA S1.4-2014/Part 3, for the environmental conditions under which the tests were performed. As evidence was publicly available, from an independent testing organization responsible for approving the results of pattern-evaluation tests performed in accordance with IEC 61672-2:2013 / ANSI/ASA S1.4-2014/Part 2, to demonstrate that the model of sound level meter fully conformed to the class 1 specifications in IEC 61672-1:2013 / ANSI/ASA S1.4-2014/Part 1; the sound level meter submitted for testing conforms to the class 1 specifications in IEC 61672-1:2013 / ANSI/ASA S1.4-2014/Part 1.

Standards Used			
Description	Cal Date	Cal Due	Cal Standard
Larson Davis 1/2" Preamplifier for Model 831 Type I	2021-05-24	2022-05-24	0000354
SRS DS360 Ultra Low Distortion Generator	2021-03-09	2022-03-09	006311
Hart Scientific 2626-H Temperature Probe	2021-02-04	2022-08-04	006767
1/2 inch Microphone - P - 0V	2021-03-12	2022-03-12	007081
Larson Davis CAL291 Residual Intensity Calibrator	2020-10-28	2021-10-28	007287
Larson Davis Model 831	2020-09-22	2021-09-22	007507
Larson Davis CAL200 Acoustic Calibrator	2021-04-12	2022-04-12	007784

Acoustic Calibration

Measured according to IEC 61672-3:2013 10 and ANSI S1.4-2014 Part 3: 10

Measurement	Test Result [dB]	Lower Limit [dB]	Upper Limit [dB]	Expanded Uncertainty [dB]	Result
1000 Hz	113.97	113.80	114.20	0.14	Pass

As Received Level: 114.27
Adjusted Level: 113.97

-- End of measurement results--

Acoustic Signal Tests, C-weighting

Measured according to IEC 61672-3:2013 12 and ANSI S1.4-2014 Part 3: 12 using a comparison coupler with Unit Under Test (UUT) and reference SLM using slow time-weighted sound level for compliance to IEC 61672-1:2013 5.5; ANSI S1.4-2014 Part 1: 5.5

Frequency [Hz]	Test Result [dB]	Expected [dB]	Lower Limit [dB]	Upper Limit [dB]	Expanded Uncertainty [dB]	Result
125	-0.27	-0.20	-1.20	0.80	0.23	Pass
1000	0.12	0.00	-0.70	0.70	0.23	Pass
8000	-2.16	-3.00	-5.50	-1.50	0.32	Pass

-- End of measurement results--

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716-684-0001

2021-6-11T15:10:08



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Self-generated Noise

Measured according to IEC 61672-3:2013 11.1 and ANSI S1.4-2014 Part 3: 11.1

Measurement

Test Result [dB]

A-weighted, 20 dB gain

43.41

-- End of measurement results--

-- End of Report--

Signatory: Jason Grace

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716-684-0001



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Calibration Certificate

Certificate Number 2022006936

Customer:

RML Acoustics LLC

Model Number 831
Serial Number 0002660
Test Results Pass
Initial Condition Inoperable
Description Larson Davis Model 831
Class 1 Sound Level Meter
Firmware Revision: 2.403

Procedure Number D0001.8384
Technician Jacob Cannon
Calibration Date 1 Jun 2022
Calibration Due
Temperature 23.48 °C ± 0.25 °C
Humidity 50.1 %RH ± 2.0 %RH
Static Pressure 86.2 kPa ± 0.13 kPa

Evaluation Method Tested with: **Data reported in dB re 20 µPa.**

Larson Davis CAL291. S/N 0108
Larson Davis CAL200. S/N 9079
Larson Davis PRM831. S/N 019105
PCB 377B02. S/N 166046

Compliance Standards Compliant to Manufacturer Specifications and the following standards when combined with Calibration Certificate from procedure D0001.8378:

IEC 60651:2001 Type 1	ANSI S1.4-2014 Class 1
IEC 60804:2000 Type 1	ANSI S1.4 (R2006) Type 1
IEC 61252:2002	ANSI S1.11 (R2009) Class 1
IEC 61260:2001 Class 1	ANSI S1.25 (R2007)
IEC 61672:2013 Class 1	ANSI S1.43 (R2007) Type 1

Issuing lab certifies that the instrument described above meets or exceeds all specifications as stated in the referenced procedure (unless otherwise noted). It has been calibrated using measurement standards traceable to the International System of Units (SI) through the National Institute of Standards and Technology (NIST), or other national measurement institutes, and meets the requirements of ISO/IEC 17025:2017.

Test points marked with a ‡ in the uncertainties column do not fall within this laboratory's scope of accreditation.

The quality system is registered to ISO 9001:2015.

This calibration is a direct comparison of the unit under test to the listed reference standards and did not involve any sampling plans to complete. No allowance has been made for the instability of the test device due to use, time, etc. Such allowances would be made by the customer as needed.

The uncertainties were computed in accordance with the ISO Guide to the Expression of Uncertainty in Measurement (GUM). A coverage factor of approximately 2 sigma (k=2) has been applied to the standard uncertainty to express the expanded uncertainty at approximately 95% confidence level.

This report may not be reproduced, except in full, unless permission for the publication of an approved abstract is obtained in writing from the organization issuing this report.

Correction data from Larson Davis Model 831 Sound Level Meter Manual, I831.01 Rev O, 2016-09-19

For 1/4" microphones, the Larson Davis ADP024 1/4" to 1/2" adaptor is used with the calibrators and the Larson Davis ADP043 1/4" to 1/2" adaptor is used with the preamplifier.

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716-684-0001



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Certificate Number 2022006936

Calibration Check Frequency: 1000 Hz; Reference Sound Pressure Level: 114 dB re 20 μ Pa; Reference Range: 0 dB gain

Periodic tests were performed in accordance with procedures from IEC 61672-3:2013 / ANSI/ASA S1.4-2014/Part3.

Pattern approval for IEC 61672-1:2013 / ANSI/ASA S1.4-2014/Part 1 successfully completed by Physikalisch-Technische Bundesanstalt (PTB) on 2016-02-24 certificate number DE-15-M-PTB-0056.

The sound level meter submitted for testing successfully completed the periodic tests of IEC 61672-3:2013 / ANSI/ASA S1.4-2014/Part 3, for the environmental conditions under which the tests were performed. As evidence was publicly available, from an independent testing organization responsible for approving the results of pattern-evaluation tests performed in accordance with IEC 61672-2:2013 / ANSI/ASA S1.4-2014/Part 2, to demonstrate that the model of sound level meter fully conformed to the class 1 specifications in IEC 61672-1:2013 / ANSI/ASA S1.4-2014/Part 1; the sound level meter submitted for testing conforms to the class 1 specifications in IEC 61672-1:2013 / ANSI/ASA S1.4-2014/Part 1.

Standards Used			
Description	Cal Date	Cal Due	Cal Standard
Larson Davis CAL291 Residual Intensity Calibrator	2021-09-10	2022-09-10	001250
Hart Scientific 2626-H Temperature Probe	2021-02-04	2022-08-04	006767
Larson Davis CAL200 Acoustic Calibrator	2021-07-21	2022-07-21	007027
Larson Davis Model 831	2022-02-21	2023-02-21	007182
PCB 377A13 1/2 inch Prepolarized Pressure Microphone	2022-03-02	2023-03-02	007185
SRS DS360 Ultra Low Distortion Generator	2022-03-29	2023-03-29	007635
Larson Davis 1/2" Preamplifier for Model 831 Type 1	2021-09-28	2022-09-28	PCB0004783

Acoustic Calibration

Measured according to IEC 61672-3:2013 10 and ANSI S1.4-2014 Part 3: 10

Measurement	Test Result [dB]	Lower Limit [dB]	Upper Limit [dB]	Expanded Uncertainty [dB]	Result
1000 Hz	114.00	113.80	114.20	0.14	Pass

Adjusted Level: 114.00
As Received Level: 113.96

-- End of measurement results--

Loaded Circuit Sensitivity

Measurement	Test Result [dB re 1 V / Pa]	Lower Limit [dB re 1 V / Pa]	Upper Limit [dB re 1 V / Pa]	Expanded Uncertainty [dB]	Result
1000 Hz	-27.29	-27.84	-24.74	0.14	Pass

-- End of measurement results--

Acoustic Signal Tests, C-weighting

Measured according to IEC 61672-3:2013 12 and ANSI S1.4-2014 Part 3: 12 using a comparison coupler with Unit Under Test (UUT) and reference SLM using slow time-weighted sound level for compliance to IEC 61672-1:2013 5.5; ANSI S1.4-2014 Part 1: 5.5

Frequency [Hz]	Test Result [dB]	Expected [dB]	Lower Limit [dB]	Upper Limit [dB]	Expanded Uncertainty [dB]	Result
125	-0.22	-0.20	-1.20	0.80	0.23	Pass
1000	0.12	0.00	-0.70	0.70	0.23	Pass
8000	-2.42	-3.00	-5.50	-1.50	0.32	Pass

-- End of measurement results--

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Self-generated Noise

Measured according to IEC 61672-3:2013 11.1 and ANSI S1.4-2014 Part 3: 11.1

Measurement

Test Result [dB]

A-weighted, 20 dB gain

40.54

— End of measurement results—

— End of Report—

Signatory: Jacob Cannon

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1681 West 820 North
Provo, UT 84601, United States
716-684-0001

2022-6-1T16:53:09



 **LARSON DAVIS**
A PCB DIVISION

Sarasota Int Airport:

I spoke with Mike in their noise complaint department. He said departures and arrivals are from the Southeast. That area is getting the most noise and is the bulk of where their complaints come from. Arrivals aren't as loud as departures.

Holiday Inn 941-355-9000

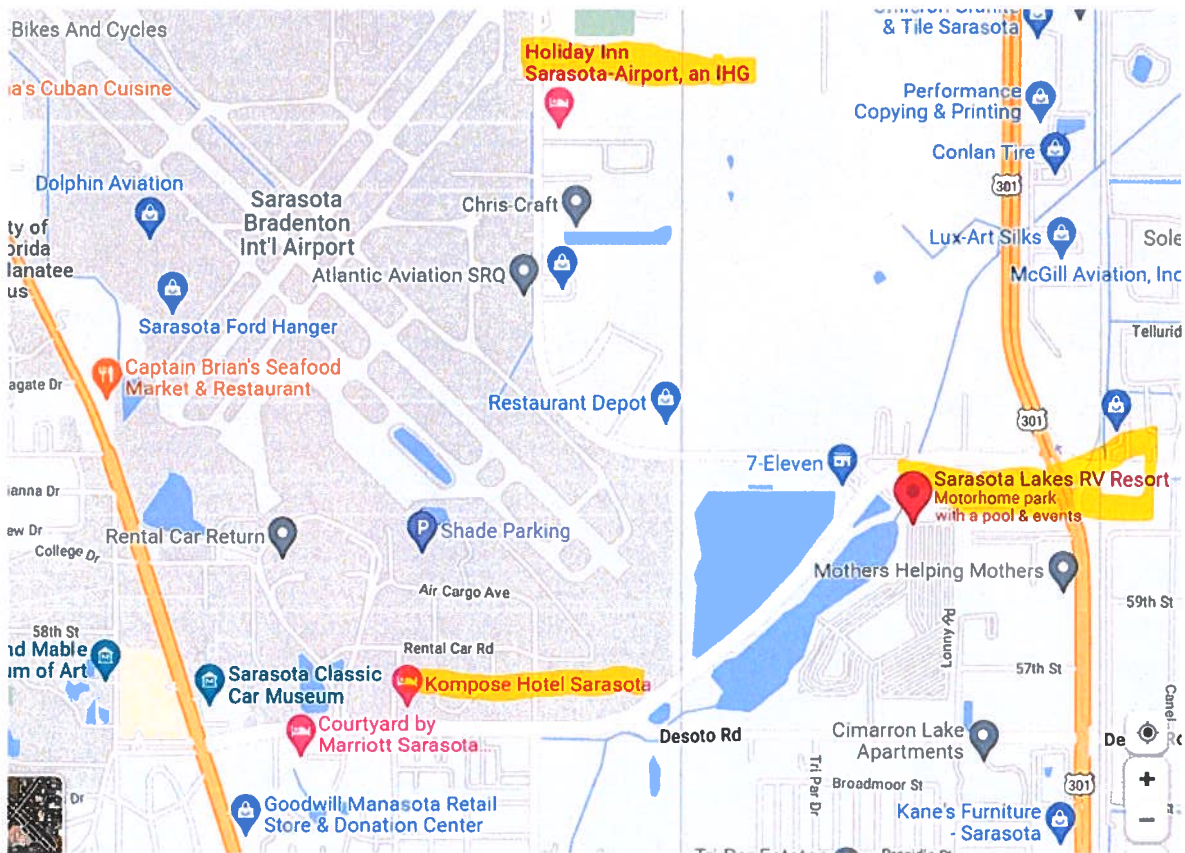
They don't have any noise complaints. They are on the other side of the airport and have private jets, so can't really hear it.

Kompose Hotel – 941-330-1160

They said they never get noise complaints; can't hear the planes at all.

Sarasota Lakes RV Resort – 941-355-8585

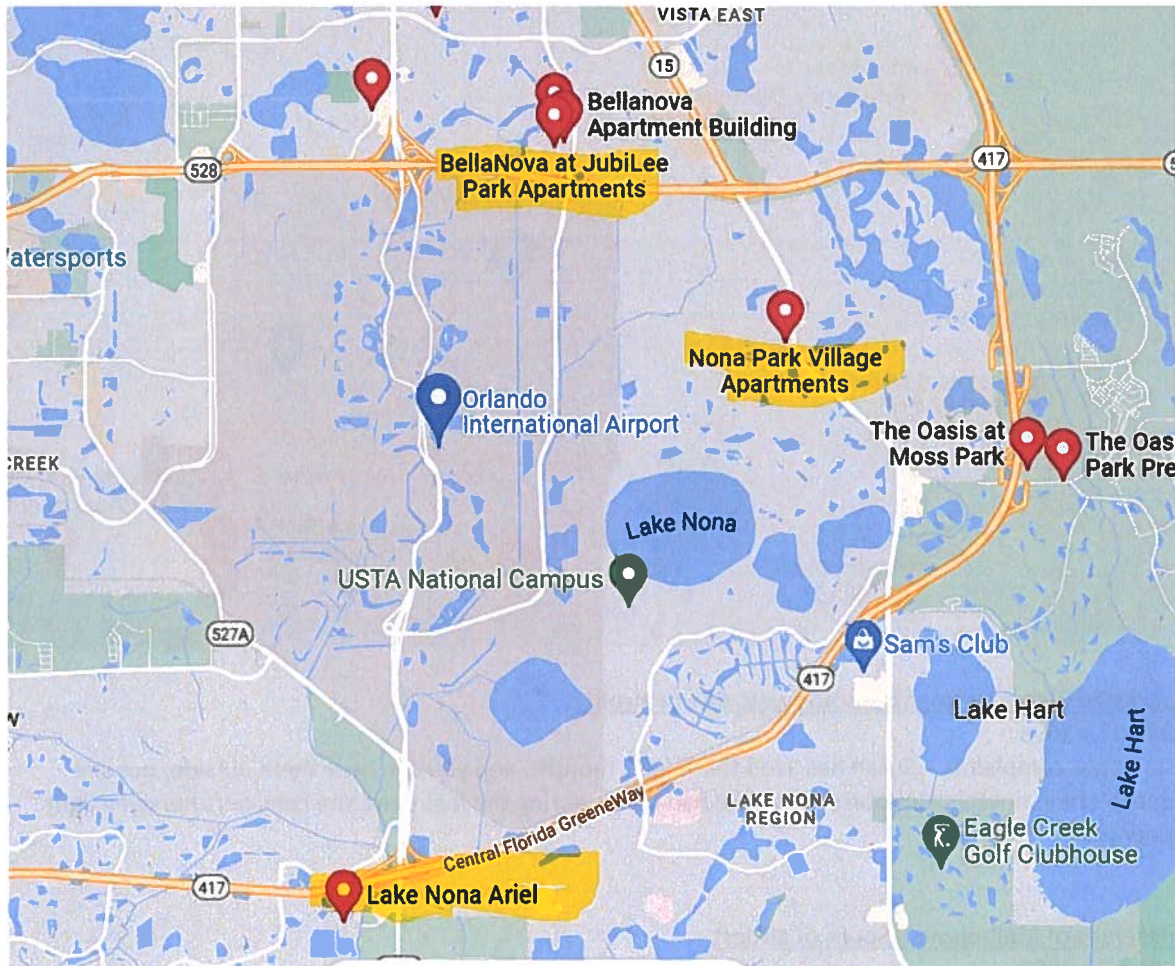
Yes, you can hear the airplanes and they do get noise complaints.



Orlando International Airport

[Noise Brochure for Orlando Int Airport – Frequently asked questions and map of noise levels surround airport](#)

Orlando International Airport Customer Service Line:
Noise officer line – 407-825-2674



Nona Park Village – northeast side

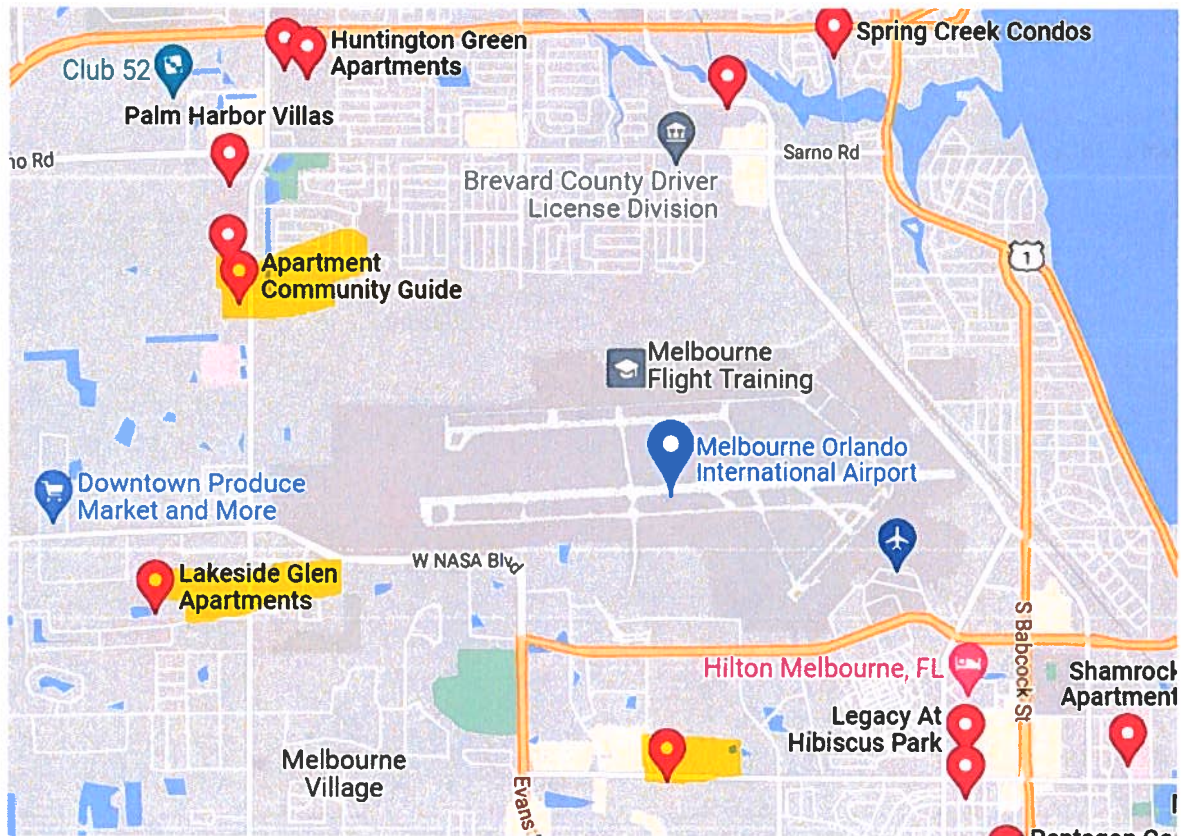
407-888-1028

Don't really hear any of the airplanes – parallel with the runways. Assistant and manager live on site and said she doesn't notice it at all.

Lake Nona Ariel – south end of airport

Don't get any complaints – not abnormally noisy. Hear it every now and again, but nothing that disturbs tenants.

Melbourne



Lakeside Glen Apartments – southwest side of airport

833-573-1698

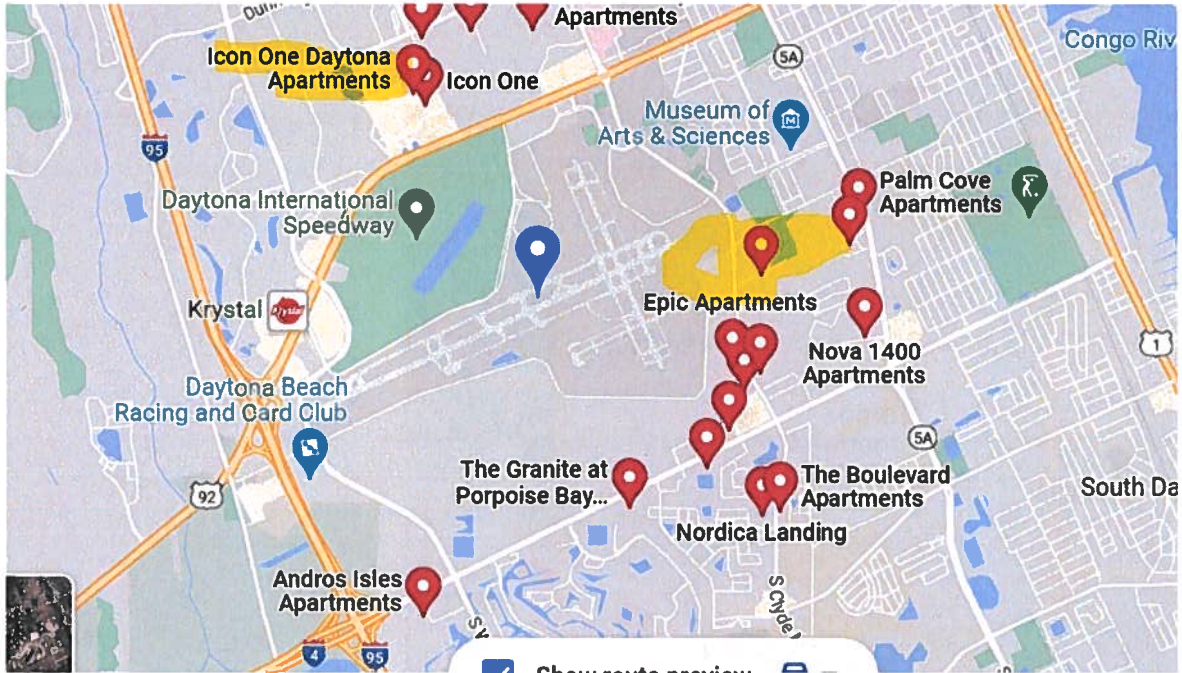
Don't get complaints – Susan has lived there for 3 months, and you can hear them outside, but she doesn't hear anything indoors. Has never had issues during the night and she considers herself a light sleeper.

Reserves of Melbourne – South of airport

321-593-0787

Don't get complaints. The planes don't fly overhead unless they're diverted. She lives there and never has issues.

Daytona Beach Int Airport

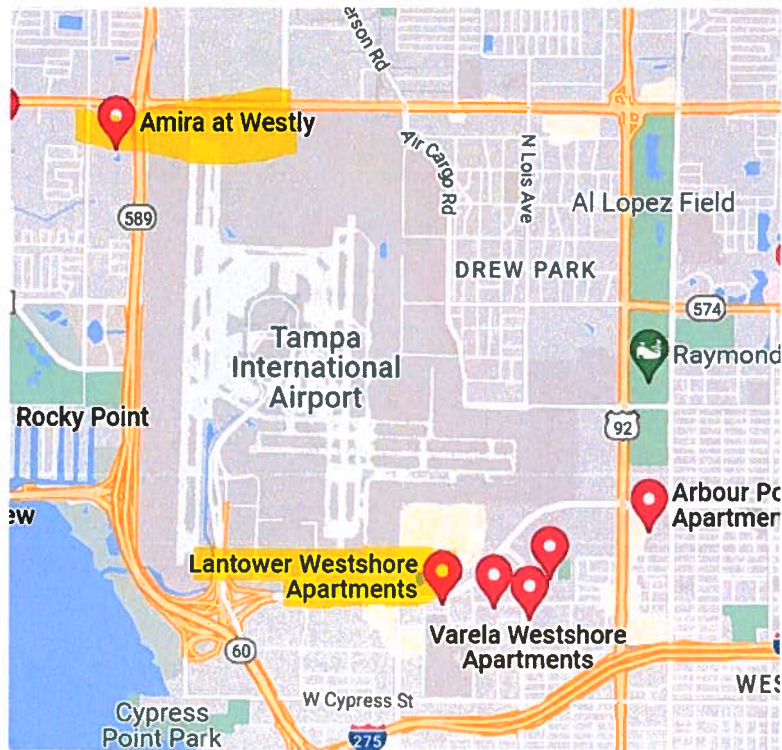


Epic Apartments – East side of airport

Kristen says they're by the airport and the racetrack – hears the racecars more than the planes. Only hear when jets taken off, and it's seldom. On this end the airport sold most of the strips to Embry Riddle, so smaller planes. No complaints from residents at all.

Tampa International Airport

[Noise abatement department](#)



Novus Westshore – Southeast (right next to Lantower)

813-694-5513

Haven't had any complaints – lives on site and has never heard anything from the airport.



city of PALM COAST

Utility Department

2 Utility Drive
Palm Coast, FL 32137
386-986-2360

February 6, 2023

Ken Atlee
Tidelands Investments, LLC

Re: Service Availability for Multi-Family / Commercial, Palm Coast Florida
City of Palm Coast, Flagler County

This letter confirms that City of Palm Coast is the water and wastewater service provider to the referenced property in Flagler County, Florida. Enclosed are copies of the system maps of the City's utility system showing existing water and wastewater mains in the area, as the City believes that they exist, for your use in project design. No representation is made as to the precise location of facilities. It is your responsibility to ensure that utility lines and other facilities are located at locations and in a sufficient condition to meet the requirements of your proposed development and the requirements of the City.

If a main extension is required, the design, permitting, and construction of the extension are your responsibility. Plan review by the City is required for all commercial projects and those projects involving a main extension. Construction must meet City Standards and Specifications. The Standards and Specifications Manual, with Standard Details, is available to you via City web-site or regular mail. All such matters must be memorialized by written city approvals.

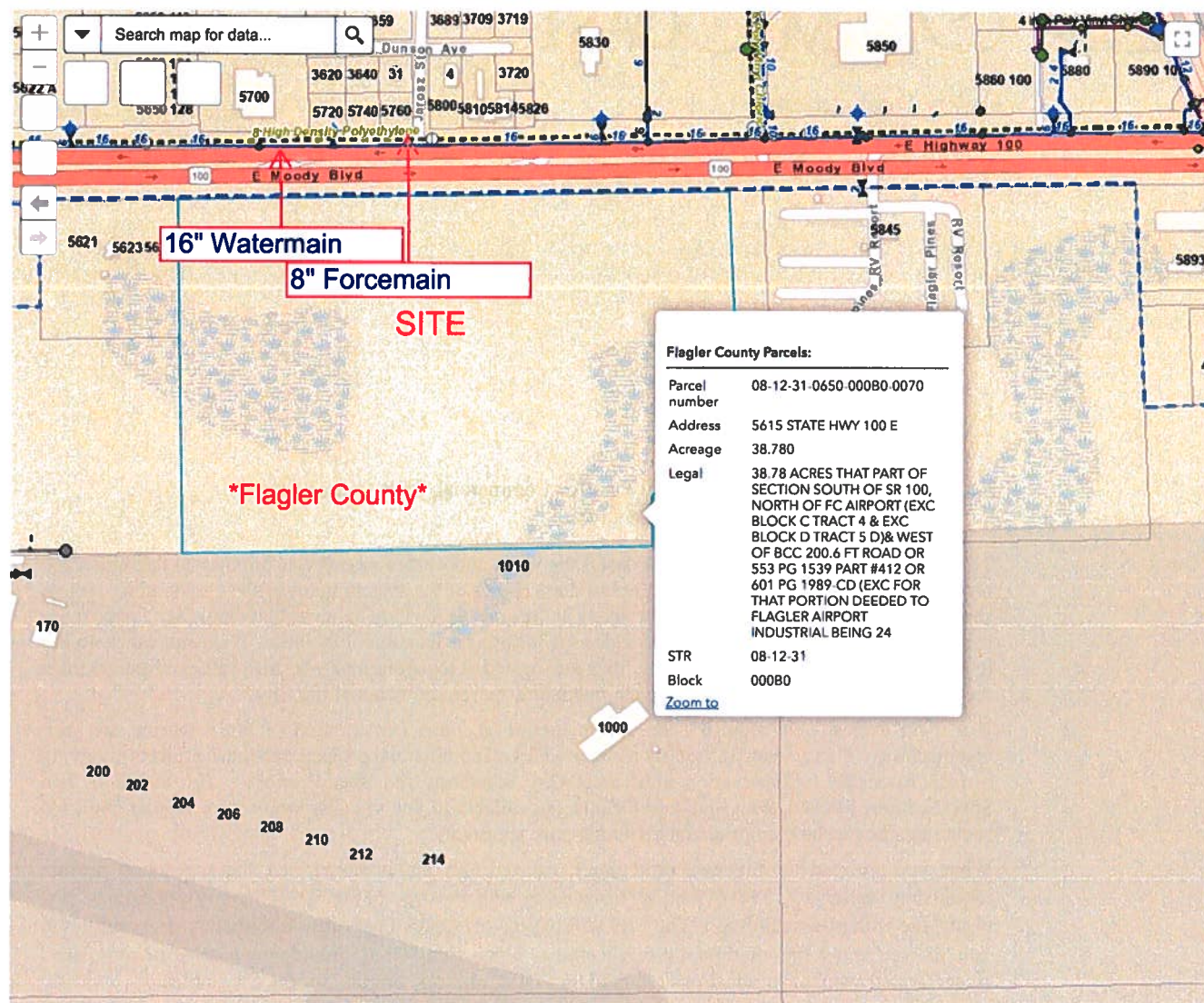
When you are ready to proceed, provide all required City application forms, the annexation petition required by section 49-53 (e) of the City Code along with one copy of the FDEP Permit Applications (fax, or include with plan submittal.) The City will redline the Operating Utility information, and return it to you, for you to incorporate onto the Applications. Upon completion, provide the number of completed, signed/sealed original Applications required by FDEP, plus one original for the City's files.

Please note that all applicable fees must be paid to the City, and plans must be stamped "Authorized For Construction," before the FDEP permit applications will be returned for your submittal to FDEP. Upon plan approval, the City will conduct construction inspection. Also, legal documents as necessary to convey the new facilities to the City must be completed and approved by the City, and FDEP/HRS clearance must be received **prior to service** being provided. Sample legal documents will be provided to you by the City to assist you during this phase of the project. The City will implement the annexation petition in accordance with its terms.

If you have any questions please feel free to contact me at (386) 986-2355

Sincerely,

Irma Velez
Utility Development Coordinator (ivelez@palmcoastgov.com)



LIVINGSTON & SWORD, P.A.

Attorneys At Law

March 23, 2023

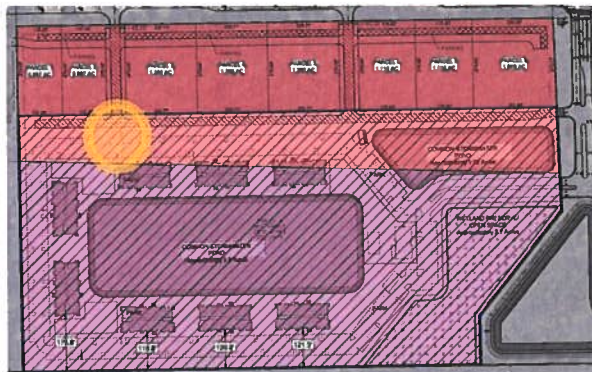
Adam Mengel
Growth Management Director
Flagler County
1769 E. Moody Blvd.
Building 2, Suite 105
Bunnell, FL 32110

Subject: Responses to Technical Review Committee Comments dated March 13, 2023
Application for Rezoning from I (Industrial) to R-3B (Multi-Family Residential) District
Project #: 2022090032 / AR #3577
Application #: 3331

Dear Mr. Mengel:

The comments from the March 13, 2023, Technical Review Committee letter are restated below with the applicant's responses to each.

In addition, at the Technical Review Committee meeting held on March 15, 2023, a question was asked about secondary access to the multi-family portion of the proposed project. As discussed, there is a secondary emergency only access point proposed from the multi-family parking area to the roadway that will run behind the commercial parcels fronting SR 100, as highlighted in the following detail from the rezoning exhibit:



391 Palm Coast Parkway SW #1
Palm Coast, Florida 32137
T 386.439.2945
F 866.896.5573
jay.livingston314@protonmail.ch

We will prepare an updated graphic making this access point clearer for our presentation at the April Planning Board meeting. I will forward you a copy as soon as it is received.

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

1. No comments at this time

RESPONSE: No response required.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

1. No comments at this time.

RESPONSE: No response required.

REVIEWING DEPARTMENT: FLAGLER EXECUTIVE AIRPORT

1. No comments at this time.

RESPONSE: No response required.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. No comments at this time.

RESPONSE: No response required.

REVIEWING DEPARTMENT: E-911 STAFF

1. No comments.

RESPONSE: No response required.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

1. No objection or comments.

RESPONSE: No response required.

REVIEWING DEPARTMENT: FIRE INSPECTOR

1. Fire Rescue has no Issue with the rezoning project.

RESPONSE: Thank you.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. No comments at this time.

RESPONSE: No response required.

REVIEWING DEPARTMENT: FLAGLER EXECUTIVE AIRPORT

1. This property is contiguous the Flagler Executive Airport. The rezoning of the property would allow for the development of multi-family development, which is

not a compatible land use for the airport. This property was rezoned in 2021, under Ordinance No. 2021-10 from AC (Agriculture) district to I (Industrial) district, which is a compatible land use as a developer could construct warehouse facilities or other types of commercial/industrial uses that could benefit from the proximity to the airport and I-95.

RESPONSE: This comment was already addressed in the Applicant's response letter dated February 7, 2023.

1. In addition to the incompatible land use, this request is not aligned with the recently approved Flagler County Strategic Plan outlined under Economic Vitality Objectives EV 2.1 and EV 2.4. Flagler County does not have an abundance of large plots of land to be utilized for commercial and industrial development. By approving this rezoning, it would further diminish the availability of large plots of land for commercial/industrial uses. Residential construction is a short-term job creator, while commercial/industrial is long-term.

RESPONSE: This comment was already addressed in the Applicant's response letter dated February 7, 2023.

2. The Flagler Executive Airport has a perceived aircraft noise issue, which is continuously brought to the attention of the Airport Director. The addition of a multi-family development could potentially lead to over 600 new residents bordering the third busiest General Aviation airport in Florida. It would be inevitable that these new residents would complain about the aircraft noise as the neighboring residents do now. I see no reason to exacerbate this issue when there are many other areas in Flagler County where a multi-family development would be better suited.

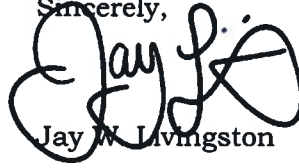
RESPONSE: This comment was already addressed in the Applicant's response letter dated February 7, 2023.

3. The Flagler Executive Airport continues to grow and is getting busier. The airport is currently constructing 42 new T-hangars units, which will be completed in November 2023. We already have these T-hangar units spoken for as we have 147 people on our waiting list. There will be more construction of hangars in the near future to meet the unmet demand for hangar space.

RESPONSE: This comment was already addressed in the Applicant's response letter dated February 7, 2023.

Contact me if you have any questions, comments or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay W. Livingston". The signature is stylized with large, flowing loops and a prominent "J" and "L".

Jay W. Livingston

FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD

REGULAR MEETING

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

MEETING MINUTES

Tuesday, April 11, 2023 at 6:00 PM

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

Members present: Timothy Connor, Heather Haywood, Mark Langelo, and Fernando Melendez (Chair).

Members excused: Michael Boyd, Jack Corbett, and Anthony Lombardo.

Staff present: Adam Mengel, Growth Management Director; Chuck Merenda, Assistant Growth Management Director; and Gina Lemon, Development Review Planner III.

Board Counsel: Sean Moylan, Deputy County Attorney.

2. Pledge to the Flag.

3. Approval of: March 14, 2023 regular meeting minutes.

Motion: Motion for approval.

Motion by: Mark Langelo

Motion 2nd by: Timothy Conner

Vote: Motion carried unanimously.

4. Legislative, not requiring disclosure of ex parte communication:
Application #3330 – **SMALL SCALE FUTURE LAND USE MAP AMENDMENT FROM COMMERCIAL: HIGH INTENSITY (6.52+/- AC) AND INDUSTRIAL (21.80+/- AC) TO RESIDENTIAL: HIGH DENSITY (28.32+/- AC)** – request to amend the Future Land Use Map designation at 5615 State Road 100 East. Parcel Number 08-12-31-0650-000B0-0070; 28.32+/- acres. Owner: Flagler Pines Properties, LLC/Applicant: Jay W. Livingston, Esq.
Project #2022090031 (TRC, PDB, BCC)

Staff Presentation: Mr. Mengel presented the staff report.

Applicant Presentation: Jay Livingston, Esquire, Livingston and Sword, gave an overview of the proposed project. He explained that the proposed high density residential use. He explained the parcel specific limiting policy does exist in the Future

amendment (for Parcel # 08-12- 31-0650-000B0-0070) totaling 28.32+/- acres from Commercial High Intensity and Industrial to Residential High Density, finding that the amendment is consistent with the Flagler County Comprehensive Plan.

Motion by: Timothy Conner
Motion died for lack of second.

Jay Livingston on rebuttal, this particular parcel is not going to be used as industrial. He went on to describe the lack of compatibility with industrial uses. There is a lot of industrial land within this area, but it is not being utilized as industrial. We have seen commercial development and residential development. There are apartments within Town Center, this is almost the same uses and zoning. The apartment projects are really nice. Mixing the multifamily locations with the commercial has been demonstrated to work; to find locations build multifamily without having to make everyone angry. This concept that this property will not be developed for industrial.

Mark Langelo understood what Mr. Conner was talking about and mixing it up, but disagreed with the lack of industrial.

Motion: The Planning and Development Board recommends to the Board of County Commissioners denial of Application #3330, a Future Land Use Map amendment (for Parcel # 08-12- 31-0650-000B0-0070) totaling 28.32+/- acres from Commercial High Intensity and Industrial to Residential High Density, finding that the amendment is not consistent with the Flagler County Comprehensive Plan on two points: the land zoning that is here is more appropriate; and changing it to residential is not consistent.

For the record, Mr. Conner explained that this will never be used for industrial.

Motion by: Mark Langelo

Motion 2nd by: Heather Haywood

Vote: Motion carried with 3 ayes, Timothy Conner voted nay.

5. Quasi-judicial requiring disclosure of ex parte communication:
Application #3331 – **REZONING FROM C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT AND I (INDUSTRIAL) DISTRICT TO R-3B (MULTIFAMILY RESIDENTIAL) DISTRICT** – request for rezoning at 5615 State Road 100 East. Parcel Number 08-12-31-0650-000B0-0070; 28.32+/- acres.
Owner: Flagler Pines Properties, LLC/Applicant: Jay W. Livingston, Esq.
Project #2022090032 (TRC, PDB, BCC)

No Board disclosures.

Staff Presentation: Mr. Mengel presented the staff report.

Applicant Presentation: Jay Livingston, Esquire, Livingston and Sword continued that

the property will be annexed to the City of Palm Coast. The presentation was relative to both items.

Board Questions:

Mark Langello asked if the City of Palm Coast has been talked to about this project.

Mr. Livingston commented that this will be a mixed use area.

Mark Langello questioned if the part or the whole would be annexed.

Mr. Livingston responded that they would take the whole, because you do not want to create an enclave.

Public Comments:

No public comment.

Mr. Moylan explained that the Board is a recommending body, therefore make a motion based on the merits of the project.

Motion: The Planning and Development Board recommends to the Board of County Commissioners denial of Application #3331, a rezoning from C-2 (General Commercial and Shopping Center) and I (Industrial) Districts to R-3b (Multifamily Residential) District for 28.32+/- acres, finding that the proposed rezoning is inconsistent with the Flagler County Comprehensive Plan and the Flagler County Land Development Code and compatibility to the surrounding area.

Motion by: Mark Langello

Motion 2nd by: Heather Haywood

Vote: Motion carried 3 ayes, Timothy Conner voted nay.

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

Application #3345 – SPECIAL EXCEPTION IN THE C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT – request for a Special Exception for a Roadside Vendor for art and food trucks at 2751 Moody Boulevard. Parcel Number 11-12-31-0650-000C0-0050; 9+/- acres. Owner: Robert Mott and John Mott/Applicant: Amber Embers.

Project #2023020040

(TRC, PDB)

Mark Langello disclosed that he had a conversation with the applicant, stopped the conversation and said will discuss in the proper setting.

Staff Presentation: Mr. Mengel presented the staff report.

Mark Langello, questioned the signage, up at the street to advertise their overall project. Not limiting the tent signage.

THE FLAGLER/PALM COAST
NEWS-TRIBUNE P.O. Box 630476, Cincinnati, OH 45263-0476

PROOF OF PUBLICATION


Adam Mengel
 Purchasing
 Flagler County Board Of County Commissioners
 1769 E Moody BLVD # 306
 Bunnell FL 32110-6355

STATE OF WISCONSIN, COUNTY OF BROWN


Before the undersigned authority personally appeared, who, on oath says that he/she is LEGAL COORDINATOR of The Flagler/Palm Coast NEWS-TRIBUNE, a weekly newspaper, published in Flagler County, Florida; that the attached copy of advertisement, being a Govt Public Notices in the Court, was published in said newspaper in the issues dated or by publication on the newspaper's website, if authorized, on:

03/22/2023

Affiant further says that The Flagler/Palm Coast News-Tribune is a newspaper published in said Flagler County, Florida, and that the said newspaper has heretofore been continuously published in said Flagler County, Florida each Wednesday and has been entered as second-class mail matter at the post office in said Flagler Beach, in said Flagler County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Subscribed and sworn to before on 03/22/2023



Legal Clerk


 Notary, State of WI, County of Brown
 3/27/27

My commission expires

Publication Cost: \$42.72

Order No: 8586731

Customer No: 465546

PO #:

of Copies:

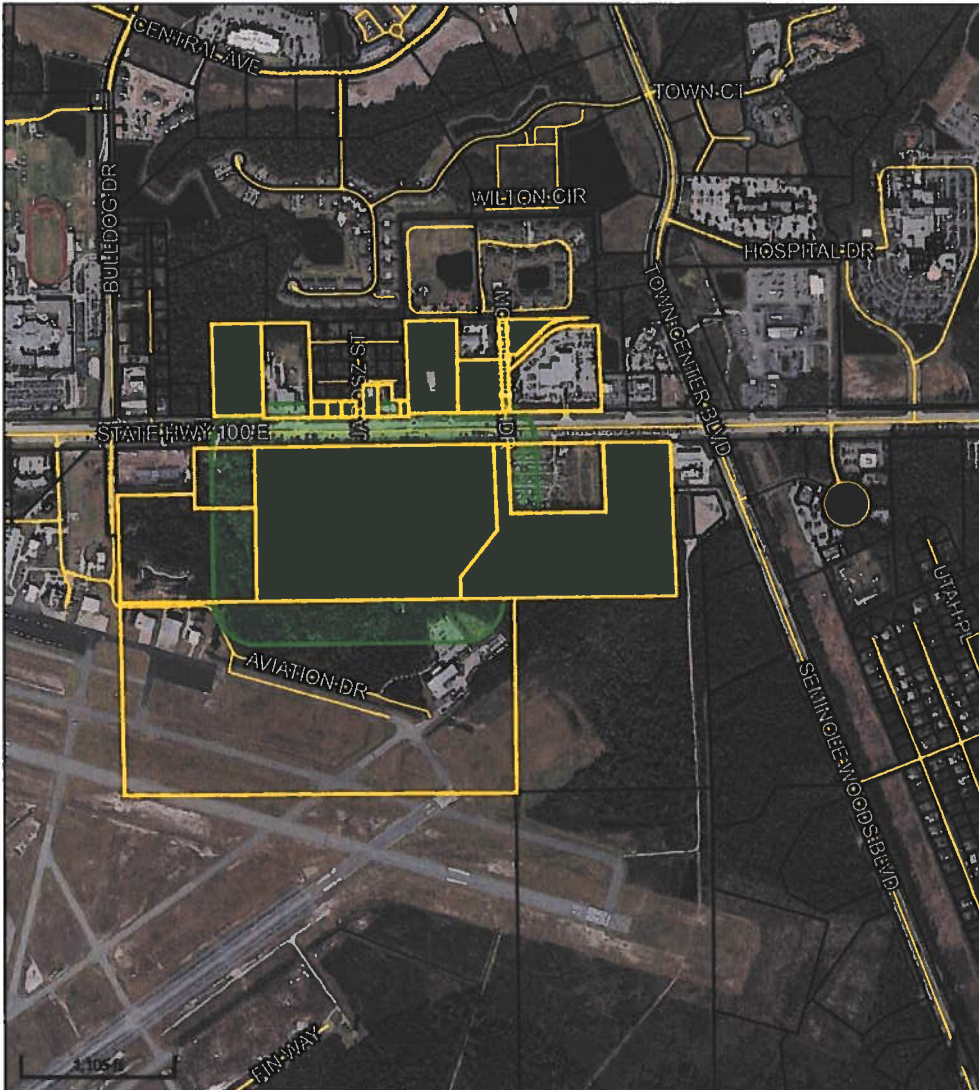
1

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

NOTICE OF REZONING
 Pursuant to Section 227.05, Flagler County Land Development Code, and Chapter 125, Florida Statutes, the Flagler County Board of County Commissioners hereby provides notice of consideration of Application #2331 submitted by Applicant Jay W. Livingston, Esq., on behalf of property owner, Flagler Pine Properties, LLC, and possible adoption of an Ordinance titled similar to:
 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AMENDING THE ZONING CLASSIFICATION OF A TOTAL OF 28.37 ACRES, MORE OR LESS, LOCATED SOUTH OF STATE ROAD 140 EAST, BEING A PORTION OF PARCEL NUMBER 8-13-3-055-0200-020, FROM C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT AND I (INDUSTRIAL) DISTRICT TO R-2B (MULTIFAMILY RESIDENTIAL) DISTRICT; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.
 Public hearings on the above-captioned matter will be held as follows:
 PLANNING AND DEVELOPMENT BOARD - April 11, 2023 at 6:00 a.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 3, Bunnell, Florida.
 The Planning and Development Board recommendation will be presented to the Board of County Commissioners for final decision; the Board of County Commissioners hearing will be held as follows:
 BOARD OF COUNTY COMMISSIONERS - May 15, 2023 at 5:30 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 3, Bunnell, Florida.
 All interested persons are urged to attend these public hearings and be heard. Anyone wishing to express their opinion may attend, telephone 386-313-6231 or write to: Flagler County Planning Department, 1769 E. Moody Blvd, Building 3, Bunnell, FL 32110 or email to: planning@flaglercounty.gov. Copies of the proposal, supporting data and analysis, staff reports and other pertinent information are available for review at the Flagler County Planning & Zoning Dept., 1769 East Moody Boulevard, Bldg. 3, Bunnell, Florida 32110.
 IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT LEAST 48 HOURS PRIOR TO THE MEETING.
 NT0000231 20230323 11

KAITLYN FELTY
 Notary Public
 State of Wisconsin




Overview



Legend

-  Parcels
-  Roads
-  Streams and River

Date created: 3/15/2023
Last Data Uploaded: 3/15/2023 12:47:11 PM
Developed by  Schneider

App #3331
Rezoning

ParcelId	OwnerName	OwnerAddress1	OwnerAddress2	OwnerCityStZip
08-12-31-0650-000A0-0090	TLG LLC		5850 E HWY 100	PALM COAST, FL 32164
08-12-31-0650-000A0-0093	CITY OF PALM COAST		160 LAKE AVENUE	PALM COAST, FL 32164
08-12-31-0650-000B0-0070	FLAGLER PINES PROPERTIES LLC		4 LAMBERT COVE	FLAGLER BEACH, FL 32136
08-12-31-0650-000B0-0071	FLAGLER AIRPORT INDUSTRIAL LLC		4 LAMBERT COVE	FLAGLER BEACH, FL 32136
08-12-31-0650-000B0-0073	FLAGLER COUNTY BOCC		1769 E MOODY BLVD	BUNNELL, FL 32110
08-12-31-0650-000B0-0090	TLG LLC		5850 E HWY 100	PALM COAST, FL 32164
08-12-31-0650-000B0-0091	TOWN CENTER COMMONS LLC		1912 NIGHTFALL DRIVE	NEPTUNE BEACH, FL 32266
08-12-31-0650-000B0-0110	MCCORMICK 100 LLC		24 PORT ECHO LANE	PALM COAST, FL 32164
08-12-31-0650-000B0-0111	CENTRAL BAPTIST CHURCH INC,THE		PO BOX 1607	BUNNELL, FL 32110
08-12-31-0650-000C0-0040	AIRPORT SHOPPES LLC		170 NW SPANISH RIVER BOULEVARD SUITE 101	BOCA RATON, FL 33431
08-12-31-0650-000C0-0070	FLAGLER COUNTY		1769 E MOODY BLVD BLDG 2 SUITE 302	BUNNELL, FL 32110
08-12-31-0650-000D0-0050	FLAGLER PINES PROPERTIES LLC		4 LAMBERT COVE	FLAGLER BEACH, FL 32136
08-12-31-6000-00010-0040	CITY OF PALM COAST		160 LAKE AVENUE	PALM COAST, FL 32164
08-12-31-6000-00010-0050	CITY OF PALM COAST		160 LAKE AVENUE	PALM COAST, FL 32164
08-12-31-6000-00010-0060	CITY OF PALM COAST		160 LAKE AVENUE	PALM COAST, FL 32164
08-12-31-6000-00020-0010	ROSAMOND BARBARA A & RONALD F	KRUPA & JULIE A H&W JTWROS	508 MOODY LANE	FLAGLER BEACH, FL 32136
08-12-31-6000-00020-0020	SLS LAND HOLDINGS LLC		PO BOX 354122	PALM COAST, FL 32135
08-12-31-6000-00020-0040	SLS LAND HOLDINGS LLC		PO BOX 354122	PALM COAST, FL 32135

I hereby affirm mailed notice to each owner on 3 / 20 /2023 for the Planning and Dev Bd meeting on 4 /11 /2023 at 6:00 pm and the BCC hearing on 5/15/2023 at 5:30 pm.


Gina Lemon, Development Review Planner III

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



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

March 20, 2023

FLAGLER PINES PROPERTIES LLC
4 LAMBERT COVE
FLAGLER BEACH, FL 32136

Re: Application #3331 – Rezoning from C-2 (General Commercial and Shopping Center) District and I (Industrial) District to R-3B (Multifamily Residential) District

Dear Property Owner:

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

A request has been made by Jay W. Livingston, Esquire for as agent for property owner Flagler Pines Properties, LLC for a rezoning of the property from C-2 (General Commercial and Shopping Center) District and I (Industrial) District to R-3B (Multifamily Residential) District parcel size of 28.317 acres more or less being a portion parcel number 08-12-31-0650-000B0-0070.

You are hereby notified that public hearings will be held as follows:

FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD – for recommendation to Board of County Commissioners on – April 11, 2023, at 6:00 p.m. in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Blvd., Building 2, Bunnell, Florida, 32110.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS – May 15, 2023, at 5:30 p.m. in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Blvd., Building 2, Bunnell, Florida, 32110 for final decision.

Andy Dance
District 1

Greg Hansen
District 2

David Sullivan
District 3

Leann Pennington
District 4

Donald O'Brien, Jr.
District 5

You are welcome to attend both hearings and express your opinion.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gina Lemon", with a stylized, cursive script.

Gina Lemon
Development Review Planner III

NOTE: PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE 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.



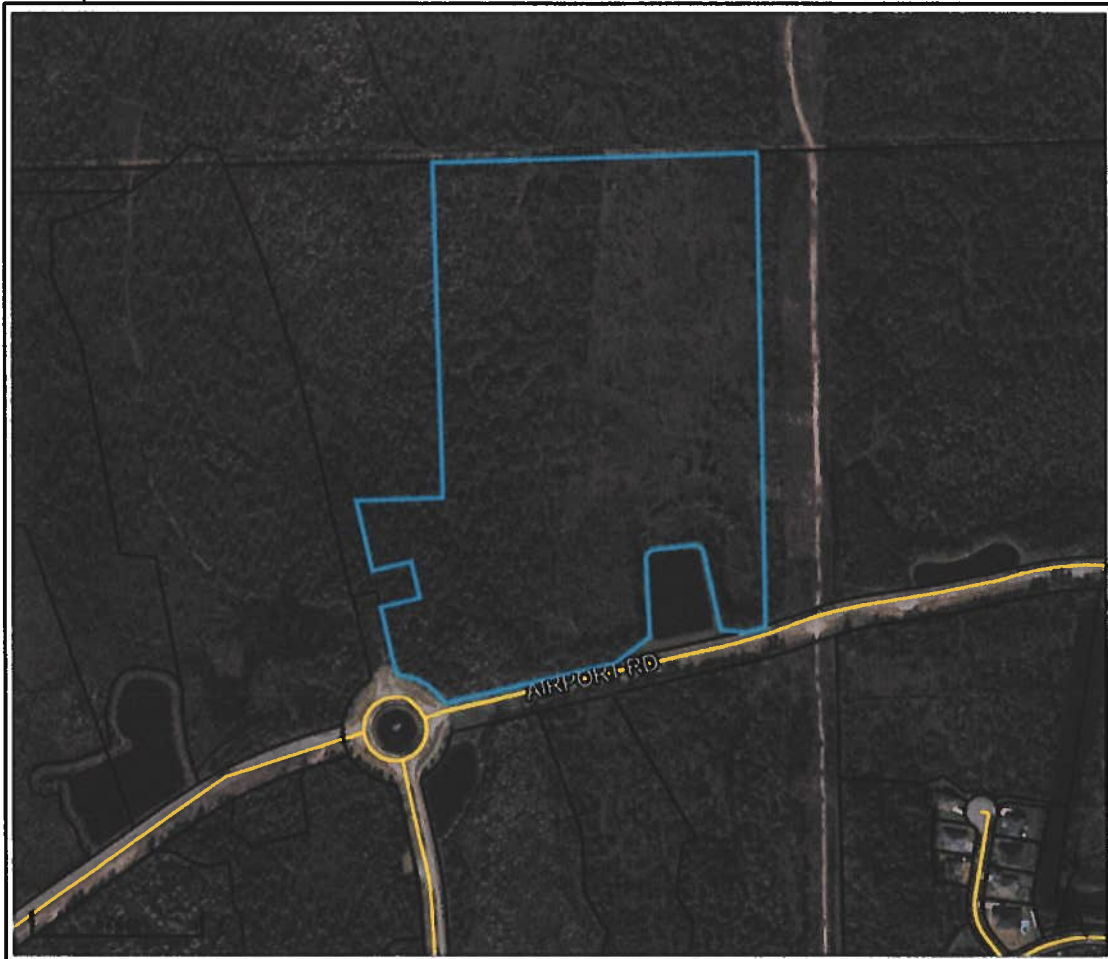
**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING / AGENDA ITEM #9e**

SUBJECT: LEGISLATIVE – Adoption of an Ordinance Establishing the Ormond Station Community Development District.

DATE OF MEETING: May 15, 2023

OVERVIEW/SUMMARY: This request is legislative in nature and does not require disclosure of ex parte communication. Pursuant to the requirements of Chapter 190, Florida Statutes, D.R. Horton, Inc., has filed a petition to establish the Ormond Station Community Development District (CDD).

Location Map:



The requested CDD district is a financing mechanism wherein future operation and maintenance of the CDD-owned facilities and infrastructure (i.e., water, sewer, roads, parks, mitigation, and security) will be funded through assessments levied against all the properties benefitted by and located within the CDD. The CDD will be structured to be financially independent and will not require any additional subsidies from Flagler County or the State of Florida. Florida Statutes requires a public hearing on the petitioned request and adoption of an ordinance establishing the CDD once the Flagler County Board of County Commissioners determines that the six statutory criteria outlined herein have been satisfied.

Public notice has been provided for this ordinance according to Chapter 190 and Section 125.66, Florida Statutes.

This agenda item is:

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

STRATEGIC PLAN:

Focus Area: Effective Government

- Goal 2 – Build & Maintain Relationships to Support Effective & Efficient Government
 - Objective EG 2.3: Establish compatible policies, procedures, and other means to operate across county and municipal boundaries.
 - Objective EG 2.4: Establish joint strategies to identify and address needs through leveraging of local resources.

DEPARTMENT CONTACT: Growth Management, Adam Mengel, 386-313-4065

RECOMMENDATION: Staff recommends that the Board of County Commissioners adopt the ordinance establishing the Ormond Station Community Development District.

ATTACHMENTS:

1. Technical Staff Report
2. Ordinance
3. Petition to Establish the Ormond Station CDD
4. Legal Advertisement

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
TECHNICAL STAFF REPORT
CREATION OF ORMOND STATION CDD

On April 3, 2023, D.R. Horton, Inc., a Florida Foreign Profit Corporation, petitioned Flagler County to establish the Ormond Station Community Development District ("CDD"). The Petition is filed in accordance with the uniform procedures for establishing a community development district pursuant to Section 190.005(2), Florida Statutes. The statute authorizes counties to establish a community development district as an independent special district to finance, construct, operate, and maintain basic infrastructure for a compact and contiguous area of land within unincorporated Flagler County.

The vicinity map depicted on the cover memo preceding this Technical Staff Report shows the 39.83+/- acre site located in southeast Flagler County, north of Airport Road, and east of the northerly extension of Hunter's Ridge Boulevard. The Ormond Station CDD is initially proposed to fund infrastructure to support the land use program of the Groveside at Ormond Station subdivision (and formerly known as Celedine PUD) as approved by the Board at its April 17, 2023 regular meeting. This plat consists of 99 single-family detached residential lots. As provided in the Petition, it is anticipated that the District boundaries will be amended in the future for two additional "takedowns" of property for an additional 1,040 dwelling units.

The initial estimate of the costs to provide the capital facilities and infrastructure for the Ormond Station CDD is \$4,431,460. To fund this construction program, the District may issue special assessment or other revenue bonds. The balance of any capital facilities or infrastructure not funded by the District will be funded by the developer through sources that include, but are not limited to, equity financing, conventional bank financing, or short-term bond debt issued by the CDD.

The assessment is levied by the CDD and is in addition to all applicable ad valorem taxes that are levied by Flagler County. The CDD will be structured financially to be independent as intended by the Florida Legislature and will not require any additional subsidies from Flagler County or the State of Florida. The CDD will take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance improvements undertaken by the CDD. Such disclosure will be in accordance with Section 190.009, Florida Statutes, and will be provided to all existing and prospective residents of the CDD.

In accordance with Section 190.012(1), Florida Statutes, the CDD will be empowered to construct, manage, and finance the following community infrastructure and service improvements:

1. Roadways
2. Stormwater management
3. Potable Water
4. Wastewater
5. Irrigation
6. Hardscaping and landscaping
7. Amenities
8. Conservation areas
9. Offsite improvements

The statutory purpose of a CDD is to plan, finance, construct, and/or acquire, operate, and maintain community-wide infrastructure in large, planned community developments. As stated in Section 190.002, Florida Statutes, the Legislature found that "...an independent district can constitute a timely, efficient, effective, responsive, and economic way to deliver these basic services, thereby providing a solution to the state's planning, management, and financing needs for delivery of capital

infrastructure in order to service projected growth without overburdening other governments and their taxpayers.” A CDD is not a substitute for the local general purpose government unit: i.e., the City or County in which the CDD lies.

It is a financing mechanism; it is not empowered to adopt a comprehensive plan, building code, or land development code, or regulate land use, zoning, or land development. A CDD lacks the powers of permitting, zoning, police, and many other authorities possessed by general purpose governments. Future operation and maintenance of CDD-owned facilities and infrastructure will be funded through maintenance assessments levied against all benefitted properties within the CDD.

The CDD will be managed by District Supervisors selected by qualified electors within the boundaries of the CDD. The applicant has designated the following five persons to serve as the initial members of the Board of Supervisors of the CDD until such time that an election can be held to establish the Board of Supervisors: Matthew Stolz, Sydney Kendrick, John Valantasis, Lou Avelli, and Sam Macias. The county and its citizens are not involved in the management or financial responsibilities of the CDD. The petitioner has provided deeds documenting that 100 percent of the real property included within the CDD boundaries is in their control, as required by Chapter 190, Florida Statutes. The developer will incur substantial costs if the proposed CDD is approved. These costs can be attributed to the planning and creation of the CDD, management and technical assistance, construction of infrastructure, and operation and maintenance associated with that infrastructure. As an independent special district, the governing body of the CDD establishes its own budget and, within the scope of its authorized powers, operates independently of the local general-purpose government entity whose boundaries include the CDD. The CDD landowners within the CDD control the entity which provides services and levies the funds to pay for them. County-owned property is independent of the CDD jurisdiction.

The creation of the CDD will require the County to review the CDD’s budget when submitted for informational purposes each year. Creation of the CDD does not impact the ad valorem taxing authority of the County, and the County does not incur any obligation for the debt payments of the CDD, pursuant to the provisions of Section 190.002(3), Florida Statutes. Approval of the CDD provides that the development pays for itself as it occurs and, therefore, furthers the concurrency requirement of the Comprehensive Plan.

The proposed CDD has been reviewed by County staff. County staff verified the CDD’s consistency with plans previously approved by Flagler County, considered financial information in the individual categories, and found the petition is in order.

A CDD is an independent special-purpose local government taxing district authorized by Chapter 190, Florida Statutes (the Uniform Community Development District Act of 1980, Section 190.002(1)a., Florida Statutes). The Uniform Community Development District Act requires a public hearing on the petitioned request. Pursuant to Florida Statutes, the petition is required to contain eight elements, and this petition complies as follows:

1. A metes and bounds description of the external boundaries of the CDD which is Exhibit “A” to the attached ordinance;
2. The written consent of all owners of real property within the proposed CDD has been provided;
3. The designation of the initial members of the Board of Supervisors is listed in the attached ordinance;
4. The proposed name of the CDD is the Ormond Station Community Development District;

5. A map of the CDD shows current major trunk water mains, sewer interceptors and outfalls, if any, and stormwater management system on the attached graphic submitted by the petitioner at Exhibit 3 to the Petition;
6. Based on available data, the petitioner proposed a timetable for construction of the district services and estimated costs for constructing the infrastructure and other proposed services within the CDD as previously discussed in this report. These estimates shall be submitted in good faith as part of the petition to establish the CDD, but shall not be binding and may be subject to change;
7. A designation of future general distribution, location and extent of public and private uses of land proposed for the CDD by the future land use plan of the local government comprehensive plan is shown in the petition submitted by the petitioner; and
8. A statement of estimated regulatory costs in accordance with the requirements of Section of 120.541, Florida Statutes, which the petitioner has prepared and is attached. The petitioner concludes that, once the proposed CDD is established:

“Adoption of the proposed rule will have no negative impact on State and local revenues. The District is an independent unit of local government. It is designed to provide community facilities and services to serve the development. It has its own sources of revenue. No state or local subsidies are required or expected.

In this regard it is important to note that any debt obligations incurred by the District to construct infrastructure or facilities, or for any other reason, are not debts of the State of Florida or the County. In accordance with Florida law, debts of the District are strictly the District’s own responsibility.”

Chapter 190, Florida Statutes, established six criteria that a petition must meet to merit approval for the establishment of a CDD. The six requirements include:

1. That all statements contained within the petition have been found to be true and correct.
2. That the creation of the CDD is not inconsistent with any applicable element or portion of the State Comprehensive Plan or the effective local government comprehensive plan.
3. That the land area within the proposed CDD is of sufficient size, sufficiently compact, and sufficiently contiguous to be developable as one functional, interrelated community.
4. That the creation of the CDD is the best alternative available for delivering the community development services and facilities to the area that will be served by the CDD.
5. That the proposed services and facilities to be provided by the CDD are not incompatible with the capacity and uses of existing local and regional community development district services and facilities.
6. That the area proposed to be included in the CDD is amenable to separate special district government. Property owners within the CDD have indicated concurrence with the application filed to establish the CDD.

County staff have reviewed the petition to establish the Ormond Station Community Development District and find that the preceding six requirements have been met.

ORDINANCE NO. 2023 - ____

AN ORDINANCE OF THE COUNTY COMMISSION OF FLAGLER COUNTY, FLORIDA, ESTABLISHING THE ORMOND STATION COMMUNITY DEVELOPMENT DISTRICT LOCATED WITHIN THE BOUNDARIES OF FLAGLER COUNTY, FLORIDA AND CONTAINING APPROXIMATELY 39.83 ACRES; PROVIDING FOR THE AUTHORITY OF THE ORDINANCE; PROVIDING FOR THE ESTABLISHMENT OF THE BOUNDARIES FOR THE ORMOND STATION COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR THE DESIGNATION OF THE INITIAL BOARD MEMBERS; PROVIDING FOR THE DISTRICT NAME; PROVIDING FOR STATUTORY PROVISIONS GOVERNING THE DISTRICT; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, D.R. Horton, Inc., a Texas Profit Corporation authorized to conduct business in the State of Florida, has petitioned the County Commission of Flagler County, Florida, a political subdivision of the State of Florida, ("Commission") to establish the ORMOND STATION COMMUNITY DEVELOPMENT DISTRICT ("District"); and

WHEREAS, the Commission, after proper published notice has conducted a public hearing on the petition and determined the following with respect to the factors to be considered in Section 190.005(1)(e) Florida Statutes, as required by Section 190.005(2)(c), Florida Statutes:

1. The petition is complete and meets the requirements of Section 190.005, Florida Statutes, and all statements contained within the petition are true and correct.
2. Establishment of the proposed District is not inconsistent with any applicable element or portion of the local comprehensive plan of Flagler County, Florida, or the State Comprehensive Plan.
3. The area of land within the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
4. The District is the best alternative available for delivering community development services and facilities to the area that will be serviced by the District.
5. The community development services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. The area that will be served by the District is amenable to separate special-district government.

WHEREAS, it is the policy of this State, as provided for in Section 190.002(2)(c), Florida Statutes, that the exercise by any independent district of its powers as set forth by uniform general law comply with all applicable governmental laws, rules, regulations, and policies governing planning and permitting of the development to be serviced by the district, to ensure that neither the establishment nor operation of such district is a development order under Chapter 380, Florida Statutes, and that the district so established does not have any zoning or permitting powers governing development; and

WHEREAS, Section 190.004(3), Florida Statutes, provides that all governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district. Community development districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Local Government Comprehensive Planning and Land Development Regulation Act. A district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable general-purpose government.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSION OF FLAGLER COUNTY, FLORIDA that:

SECTION ONE: AUTHORITY FOR ORDINANCE

This Ordinance is adopted pursuant to Section 190.005(2), Florida Statutes, and other applicable provisions of law governing county ordinances.

SECTION TWO: ESTABLISHMENT OF THE ORMOND STATION COMMUNITY DEVELOPMENT DISTRICT

The Ormond Station Community Development District is hereby established within the boundaries of the real property described in Exhibit "A" attached hereto and incorporated by reference herein.

SECTION THREE: DESIGNATION OF INITIAL BOARD MEMBERS

The following five persons are herewith designated to be the initial members of the Board of Supervisors:

- | | | | |
|----|--|----|--|
| 1. | Matthew Stolz
10192 Dowden Rd.
Orlando, FL 32832 | 2. | Sydney Kendrick
10192 Dowden Rd.
Orlando, FL 32832 |
| 3. | John Valantasis
10192 Dowden Rd.
Orlando, FL 32832 | 4. | Lou Aveli
10192 Dowden Rd.
Orlando, FL 32832 |
| 5. | Sam Macias
10192 Dowden Rd.
Orlando, FL 32832 | | |

SECTION FOUR: DISTRICT NAME

The community development district herein established shall henceforth be known as the "Ormond Station Community Development District."

SECTION FIVE: STATUTORY PROVISIONS GOVERNING THE DISTRICT

The Ormond Station Community Development District shall be governed by the provisions of Chapter 190, Florida Statutes, and all other applicable general and local law.

SECTION SIX: CONSENT TO SPECIAL POWERS

Upon the effective date of this Ordinance, the Ormond Station Community Development District will be duly and legally authorized to exist and exercise all of its powers as set forth in Section 190.012(1), Florida Statutes, and as otherwise provided by law.

The Commission hereby consents to the exercise by the Board of Supervisors of the District of special powers set forth in Section 190.012(2)(a) and 190.012(2)(d), Florida Statutes, to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreational, cultural, and educational uses, as well as facilities for security, including, but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol

cars, when authorized by proper governmental agencies; except that the District may not exercise any police power, but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the District boundaries.

SECTION SEVEN: CONFLICT AND SEVERABILITY

In the event this Ordinance conflicts with any other ordinance of Flagler County, Florida or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION EIGHT: EFFECTIVE DATE

This Ordinance shall become effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the County Commission of Flagler County, Florida, this 15th day of May 2023.

Attest:

**Flagler County Board of County
Commissioners**

Tom Bexley, Clerk of the Circuit
Court and Comptroller

Gregory L. Hansen, Chair

Approved as to Form:

Sean S. Moylan

Digitally signed by Sean S. Moylan
Date: 2023.05.03 11:52:08 -04'00'

Sean S. Moylan, Deputy County Attorney

EXHIBIT "A"

LEGAL DESCRIPTION

A PARCEL OF LAND LYING WITHIN SECTION 22, TOWNSHIP 14 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 22; THENCE ALONG THE WEST LINE OF SAID SECTION 22 RUN NORTH 01°17'59" WEST A DISTANCE OF 5262.99 FEET TO THE NORTHWEST CORNER OF SAID SECTION 22; THENCE ALONG THE NORTH LINE OF SAID SECTION 22 RUN NORTH 88°15'41" EAST A DISTANCE OF 2473.29 FEET TO THE NORTHWEST CORNER OF CONSERVATION TRACT "A", RECORDED IN OFFICIAL RECORDS BOOK 2694, PAGE 1482 AND THE NORTHWEST CORNER OF TRACT "B", RECORDED IN OFFICIAL RECORDS BOOK 2706, PAGE 145 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, BEING THE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF SAID CONSERVATION TRACT, THE NORTH LINE OF SAID SECTION 22, AND THE NORTH LINE OF SAID TRACT "B" CONTINUE NORTH 88°15'41" EAST A DISTANCE OF 1048.02 FEET TO THE INTERSECTION OF SAID NORTH LINE OF SECTION 22 AND THE WEST LINE OF THAT CERTAIN 236.00 FOOT WIDE FLORIDA POWER & LIGHT COMPANY EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 1319, PAGE 1953 AND DEED BOOK 38, PAGE 50 BOTH BEING RECORDED IN THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THENCE ALONG SAID WEST LINE AND THE EAST LINE OF SAID TRACT "B" RUN SOUTH 01°00'05" EAST A DISTANCE OF 1521.83 FEET TO THE INTERSECTION OF SAID WEST LINE WITH THE NORTHERLY RIGHT-OF-WAY OF AIRPORT ROAD (A 100.00 FOOT WIDE PRIVATE RIGHT-OF-WAY) PER MAP BOOK 37, PAGES 38-39 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT OF INTERSECTION ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1400.00 FEET, A CENTRAL ANGLE OF 02°40'58", AND A CHORD DISTANCE OF 65.55 FEET WHICH BEARS SOUTH 74°35'44" WEST; THENCE ALONG ARC OF SAID CURVE, SAID NORTH RIGHT-OF-WAY LINE AND THE SOUTH LINE OF AFORESAID TRACT "B" RUN FOR A LENGTH OF 65.56 FEET TO THE SOUTHEAST CORNER OF TRACT 5 (DRAINAGE EASEMENT) PER SAID RIGHT-OF-WAY MAP BOOK AND OFFICIAL RECORDS BOOK 1730, PAGE 1056 AS RECORDED IN THE OFFICIAL RECORDS OF FLAGLER COUNTY, FLORIDA, AND A POINT OF NON-TANGENCY WITH A LINE; THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY LINE, ALONG THE EASTERLY, NORTHERLY, AND WESTERLY LINES OF SAID TRACT 5 (DRAINAGE EASEMENT) AND SAID SOUTH LINE OF TRACT "B" RUN THE FOLLOWING SEVEN (7) COURSES AND DISTANCES: (1) NORTH 84°20'38" WEST A DISTANCE OF 82.69 FEET; (2) THENCE NORTH 12°19'05" WEST A DISTANCE OF 254.77 FEET TO THE BEGINNING OF A CURVE TO THE LEFT CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 84°28'08", AND A CHORD DISTANCE OF 40.33 FEET WHICH BEARS NORTH 54°33'04" WEST; (3) THENCE ALONG THE ARC OF SAID CURVE RUN A LENGTH OF 44.23 TO A POINT OF

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PETITION TO ESTABLISH
ORMOND STATION
COMMUNITY DEVELOPMENT
DISTRICT

Submitted by:

Jere Earlywine
Florida Bar No. 155527
Jere.Earlywine@KutakRock.com
KUTAK ROCK, LLP
407 W. College Ave.
Tallahassee, Florida 32301
(850) 528-6152 (telephone)

BEFORE THE BOARD OF COUNTY COMMISSION OF FLAGLER COUNTY, FLORIDA

PETITION TO ESTABLISH A COMMUNITY DEVELOPMENT DISTRICT

Petitioner, D.R. Horton, Inc. ("Petitioner"), hereby petitions the Board of County Commissioners of Flagler County, Florida, pursuant to the "Uniform Community Development District Act of 1980," Chapter 190, Florida Statutes, to establish a Community Development District ("District") with respect to the land described herein. In support of this petition, Petitioner states:

1. **Location and Size.** The proposed District is located entirely within Flagler County, Florida, and covers approximately 39.83 acres of land, more or less. **Exhibit 1** depicts the general location of the project. The site is generally located north of, and adjacent to, Airport Road and west of the Flagler County/Volusia County boundary. The sketch and metes and bounds descriptions of the external boundary of the proposed District are set forth in **Exhibit 2**. It is anticipated that the District's boundaries will be amended in the future to include two additional "takedowns" of property that are planned for 1,040 homes.

2. **Excluded Parcels.** There are no parcels within the external boundaries of the proposed District which are to be excluded from the District.

3. **Landowner Consents.** Petitioner has obtained written consent to establish the proposed District from the owners of one hundred percent (100%) of the real property located within the proposed District in accordance with Section 190.005, Florida Statutes. Consent to the establishment of a community development district is contained in **Exhibit 3**.

4. **Initial Board Members.** The five (5) persons designated to serve as initial members of the Board of Supervisors of the proposed District are Matthew Stolz, Sydney Kendrick, John Valantasis, Lou Avelli, Sam Macias. All of the listed persons are residents of the state of Florida and citizens of the United States of America.

5. **Name.** The proposed name of the District is the Ormond Station Community Development District.

6. **Major Water and Wastewater Facilities.** **Exhibit 4** shows the existing and proposed major trunk water mains and sewer connections serving the lands within and around the proposed District.

7. **District Facilities and Services.** **Exhibit 5** describes the type of facilities Petitioner presently expects the proposed District to finance, fund, construct, acquire and install, as well as the estimated costs of construction. At present, these improvements are estimated to be made, acquired, constructed and installed from 2023 to 2024 (future phases are expected to be completed prior to 2028). Actual construction timetables and expenditures will likely vary, due in part to the effects of future changes in the economic conditions upon costs such as labor, services, materials, interest rates and market conditions.

8. Existing and Future Land Uses. The existing use of the lands within the proposed District is vacant. The future general distribution, location and extent of the public and private land uses within and adjacent to the proposed District by land use plan element are shown in **Exhibit 6**. These proposed land uses are consistent with the Flagler Comprehensive Plan.

9. Statement of Estimated Regulatory Costs. **Exhibit 7** is the statement of estimated regulatory costs ("**SERC**") prepared in accordance with the requirements of Section 120.541, Florida Statutes. The SERC is based upon presently available data. The data and methodology used in preparing the SERC accompany it.

10. Authorized Agents. The Petitioner is authorized to do business in the State of Florida. The Petitioner has designated Jere Earlywine, Esq., as its authorized agent. See **Exhibit 8** - Authorization of Agent. Copies of all correspondence and official notices should be sent to:

Jere Earlywine
Florida Bar No. 155527
Jere.Earlywine@KutakRock.com
KUTAK ROCK, LLP
407 W. College Ave.
Tallahassee, Florida 32301
(850) 528-6152 (telephone)

11. This petition to establish the Ormond Station Community Development District should be granted for the following reasons:

a. Establishment of the proposed District and all land uses and services planned within the proposed District are not inconsistent with applicable elements or portions of the effective State Comprehensive Plan or the Flagler Comprehensive Plan.

b. The area of land within the proposed District is part of a planned community. It is of sufficient size and is sufficiently compact and contiguous to be developed as one functional and interrelated community.

c. The establishment of the proposed District will prevent the general body of taxpayers in Flagler County from bearing the burden for installation of the infrastructure and the maintenance of certain facilities within the development encompassed by the proposed District. The proposed District is the best alternative for delivering community development services and facilities to the proposed community without imposing an additional burden on the general population of the local general-purpose government. Establishment of the proposed District in conjunction with a comprehensively planned community, as proposed, allows for a more efficient use of resources.

d. The community development services and facilities of the proposed District will not be incompatible with the capacity and use of existing local and regional community development services and facilities. In addition, the establishment of the proposed District will provide a perpetual entity capable of making reasonable provisions for the operation and maintenance of the proposed District's services and facilities.

e. The area to be served by the proposed District is amenable to separate special-district government.

WHEREFORE, Petitioner respectfully requests the Board of County Commissioners of Flagler County, Florida to:

a. schedule a public hearing in accordance with the requirements of Section 190.005(2)(b), Florida Statutes;

b. grant the petition and adopt an ordinance establishing the District pursuant to Chapter 190, Florida Statutes;

c. consent to the District exercise of certain additional powers to finance, plan, establish, acquire, construct, reconstruct, enlarge or extend, equip, operate and maintain systems and facilities for: (1) parks and facilities for indoor and outdoor recreational, cultural and educational uses; and (2) security, including but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, each as authorized and described by Section 190.012(2), Florida Statutes; and

[CONTINUED ON NEXT PAGE]

d. grant such other relief as may be necessary or appropriate.

RESPECTFULLY SUBMITTED, this 6th day of March, 2023.

KUTAK ROCK, LLP



Jere Earlywine

Florida Bar No. 155527

Jere.Earlywine@KutakRock.com

KUTAK ROCK, LLP

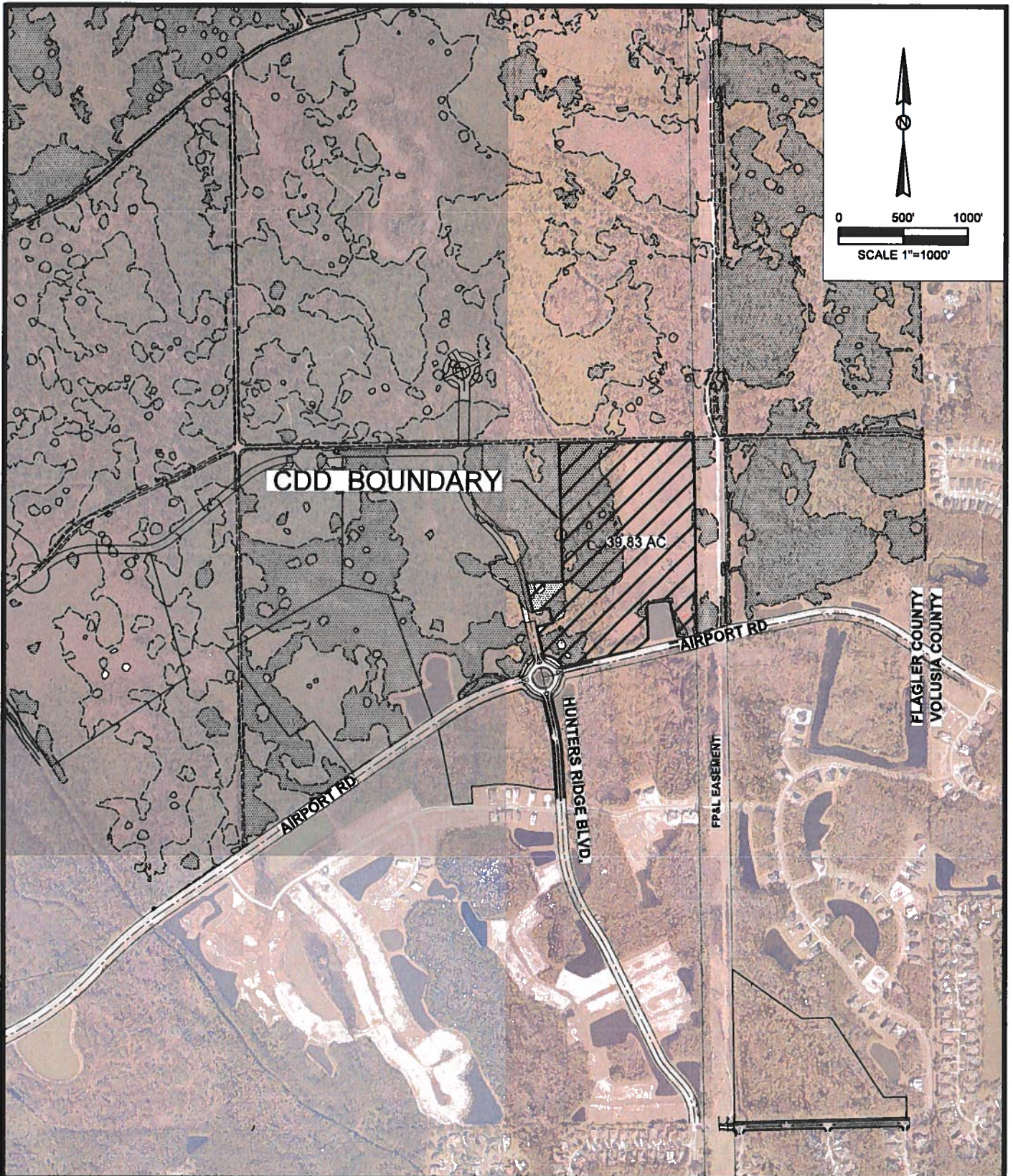
407 W. College Ave.

Tallahassee, Florida 32301

(850) 528-6152 (telephone)

Attorneys for Petitioner

EXHIBIT 1



MADDEN
MOORHEAD & STOKES, LLC
CIVIL ENGINEERS

431 E. HORATIO AVE, SUITE 260 MAITLAND, FL 32751 (407) 629-8330
 CERTIFICATE OF AUTHORIZATION NO. CA-0007723

JOB NUMBER:	23003
SEC: 22 TWP: 14S RNG: 31E	
DRAWN BY:	JFV
APPROVED BY:	DAR
DATE:	02/02/2023
SCALE:	1" = 1000'

ORMOND STATION CDD

**MAP OF DISTRICT
 BOUNDARY**

EXHIBIT 2

LEGAL DESCRIPTION

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CONTAINING 1,735,215 SQUARE FEET OR 39.835 ACRES, MORE OR LESS.



MADDEN
MOORHEAD & STOKES, LLC
CIVIL ENGINEERS

431 E. HORATIO AVE, SUITE 260 MAITLAND, FL 32751 (407) 629-8330
CERTIFICATE OF AUTHORIZATION NO. CA-0007723

JOB NUMBER:	23003
SEC: 22 TWP: 14S RNG: 31E	
DRAWN BY:	JFV
APPROVED BY:	DAR
DATE:	02/02/2023
SCALE:	NONE

ORMOND STATION CDD

**LEGAL
DESCRIPTION**

EXHIBIT 3

**Consent of Landowner
to the Establishment of a Community Development District
[Proposed Ormond Station Community Development District]**

The undersigned is the owner of certain lands more fully described on Exhibit A attached hereto and made a part hereof ("Property").

As an owner of lands that are intended to constitute all or a part of the Community Development District, the undersigned understands and acknowledges that pursuant to the provisions of Section 190.005, *Florida Statutes*, Petitioner is required to include the written consent to the establishment of the Community Development District of one hundred percent (100%) of the owners of the lands to be included within the Community Development District.

The undersigned hereby consents to the establishment of a Community Development District that will include the Property within the lands to be a part of the Community Development District and agrees to further execute any documentation necessary or convenient to evidence this consent and joinder during the application process for the establishment of the Community Development District. The undersigned also consents to having D.R. Horton, Inc., as a contract purchaser of the Property, petition the Flagler County Board of County Commissioners for establishment of the Community Development District, and to authorizing Jere Earlywine of Kutak Rock, LLP to serve as an agent of the Petitioner for this purpose.

The undersigned hereby represents and warrants that it has taken all actions and obtained all consents necessary to duly authorize the execution of this consent and joinder by the officer executing this instrument.

[SIGNATURE PAGE TO FOLLOW]

Executed this 14th day of February, 2023.

Witnessed:

ADJ HUNTERS RIDGE, LLC

Ethan Bullock
Print Name: Ethan Bullock

ANAND JOBALIA
BY: ANAND JOBALIA
ITS: MANAGER

Thomas R. McHugh
Print Name: Thomas R. McHugh

STATE OF Florida
COUNTY OF Volusia

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 14th day of February, 2023, by ANAND JOBALIA, MANAGER of ADJ HUNTERS RIDGE, LLC, who appeared before me this day in person, and who is either personally known to me, or produced _____ as identification.



Felicia Fonseca
NOTARY PUBLIC, STATE OF Florida
Name: Felicia Fonseca

(Name of Notary Public, Printed, Stamped or Typed as Commissioned)

Exhibit A: Legal Description

EXHIBIT A

LEGAL DESCRIPTION

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COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 22; THENCE ALONG THE WEST LINE OF SAID SECTION 22 RUN NORTH 01°17'59" WEST A DISTANCE OF 5262.99 FEET TO THE NORTHWEST CORNER OF SAID SECTION 22; THENCE ALONG THE NORTH LINE OF SAID SECTION 22 RUN NORTH 88°15'41" EAST A DISTANCE OF 2473.29 FEET TO THE NORTHWEST CORNER OF CONSERVATION TRACT "A", RECORDED IN OFFICIAL RECORDS BOOK 2694, PAGE 1482 AND THE NORTHWEST CORNER OF TRACT "B", RECORDED IN OFFICIAL RECORDS BOOK 2706, PAGE 145 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, BEING THE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF SAID CONSERVATION TRACT, THE NORTH LINE OF SAID SECTION 22, AND THE NORTH LINE OF SAID TRACT "B" CONTINUE NORTH 88°15'41" EAST A DISTANCE OF 1048.02 FEET TO THE INTERSECTION OF SAID NORTH LINE OF SECTION 22 AND THE WEST LINE OF THAT CERTAIN 236.00 FOOT WIDE FLORIDA POWER & LIGHT COMPANY EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 1319, PAGE 1953 AND DEED BOOK 38, PAGE 50 BOTH BEING RECORDED IN THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THENCE ALONG SAID WEST LINE AND THE EAST LINE OF SAID TRACT "B" RUN SOUTH 01°00'05" EAST A DISTANCE OF 1521.83 FEET TO THE INTERSECTION OF SAID WEST LINE WITH THE NORTHERLY RIGHT-OF-WAY OF AIRPORT ROAD (A 100.00 FOOT WIDE PRIVATE RIGHT-OF-WAY) PER MAP BOOK 37, PAGES 38-39 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, SAID POINT OF INTERSECTION ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1400.00 FEET, A CENTRAL ANGLE OF 02°40'58", AND A CHORD DISTANCE OF 65.55 FEET WHICH BEARS SOUTH 74°35'44" WEST; THENCE ALONG ARC OF SAID CURVE, SAID NORTH RIGHT-OF-WAY LINE AND THE SOUTH LINE OF AFORESAID TRACT "B" RUN FOR A LENGTH OF 65.56 FEET TO THE SOUTHEAST CORNER OF TRACT 5 (DRAINAGE EASEMENT) PER SAID RIGHT-OF-WAY MAP BOOK AND OFFICIAL RECORDS BOOK 1730, PAGE 1056 AS RECORDED IN THE OFFICIAL RECORDS OF FLAGLER COUNTY, FLORIDA, AND A POINT OF NON-TANGENCY WITH A LINE; THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY LINE, ALONG THE EASTERLY, NORTHERLY, AND WESTERLY LINES OF SAID TRACT 5 (DRAINAGE EASEMENT) AND SAID SOUTH LINE OF TRACT "B" RUN THE FOLLOWING SEVEN (7) COURSES AND DISTANCES: (1) NORTH 84°20'38" WEST A DISTANCE OF 82.69 FEET; (2) THENCE NORTH 12°19'05" WEST A DISTANCE OF 254.77 FEET TO THE BEGINNING OF A CURVE TO THE LEFT CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 84°28'08", AND A CHORD DISTANCE OF 40.33 FEET WHICH BEARS NORTH 54°33'04" WEST; (3) THENCE ALONG THE ARC OF SAID CURVE RUN A LENGTH OF 44.23 TO A POINT OF TANGENCY WITH A LINE; (4) THENCE ALONG SAID TANGENT LINE RUN SOUTH 83°12'57" WEST A DISTANCE OF 125.15 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 85°47'28", AND A CHORD DISTANCE OF 40.84 WHICH BEARS SOUTH 40°19'20" WEST; (5) THENCE ALONG THE ARC OF SAID CURVE RUN A LENGTH OF 44.92 FEET TO A POINT OF TANGENCY WITH A LINE; (6) THENCE ALONG SAID TANGENT LINE RUN SOUTH 02°34'18" EAST A DISTANCE OF 249.48 FEET; (7) THENCE RUN SOUTH 53°07'43" WEST A DISTANCE OF 138.20 FEET TO AFORESAID NORTHERLY RIGHT-OF-WAY LINE OF AIRPORT ROAD AND AFORESAID SOUTH LINE OF TRACT "B"; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND SAID SOUTH LINE OF TRACT "B" RUN SOUTH 76°55'49" WEST A DISTANCE OF 554.87 FEET TO THE SOUTH-MOST CORNER OF CONSERVATION TRACT "B", RECORDED IN AFORESAID OFFICIAL RECORDS BOOK 2694, PAGE 1482 AND THE BEGINNING OF A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 67°58'32", AND A CHORD DISTANCE OF 27.95 FEET WHICH BEARS NORTH 69°04'55" EAST; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID CONSERVATION TRACT "B", SOUTH LINE OF AFORESAID TRACT "B", AND AFORESAID NORTHERLY RIGHT-OF-WAY LINE OF AIRPORT ROAD RUN THE FOLLOWING THREE (3) COURSES AND DISTANCES: (1) ALONG THE ARC OF SAID CURVE RUN A LENGTH OF 29.66 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE TO THE LEFT, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 175.00 FEET, A CENTRAL ANGLE OF 49°00'36", AND A CHORD DISTANCE OF 145.17 FEET WHICH BEARS SOUTH 59°35'57" EAST; (2) THENCE ALONG THE ARC OF SAID CURVE RUN A LENGTH OF 149.69 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 71°02'04", AND A CHORD DISTANCE OF 29.05 FEET WHICH BEARS SOUTH 48°35'13" EAST; (3) THENCE ALONG THE ARC OF SAID CURVE RUN A LENGTH OF 30.99 FEET TO A POINT OF TANGENCY WITH A LINE AND A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HUNTER'S RIDGE BOULEVARD PER AFORESAID MAP BOOK 37, PAGES 38-39; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND AFORESAID SOUTHWESTERLY LINE OF CONSERVATION TRACT "B", AND SAID SOUTH LINE OF TRACT "B" RUN NORTH 13°04'11" WEST A DISTANCE OF 205.77 FEET; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE ALONG THE WEST LINE OF SAID TRACT "B" RUN NORTH 76°55'49" EAST A DISTANCE OF 130.00 FEET TO THE SOUTHWEST CORNER OF AFORESAID CONSERVATION TRACT "A"; THENCE ALONG THE WEST LINE OF SAID CONSERVATION TRACT "A" AND SAID WEST LINE OF TRACT "B" RUN THE FOLLOWING FIVE (5) COURSES AND DISTANCES: (1) NORTH 13°04'11" WEST A DISTANCE OF 120.00 FEET; (2) THENCE RUN SOUTH 76°55'49" A DISTANCE OF 130.00 FEET; (3) THENCE RUN NORTH 13°04'11" WEST A DISTANCE OF 231.38 FEET; (4) THENCE RUN NORTH 88°15'41" EAST A DISTANCE OF 281.00 FEET; (5) THENCE RUN NORTH 01°44'19" WEST A DISTANCE OF 1076.91 FEET RETURNING TO THE POINT OF BEGINNING. CONTAINING 1,735,215 SQUARE FEET OR 39.835 ACRES, MORE OR LESS.

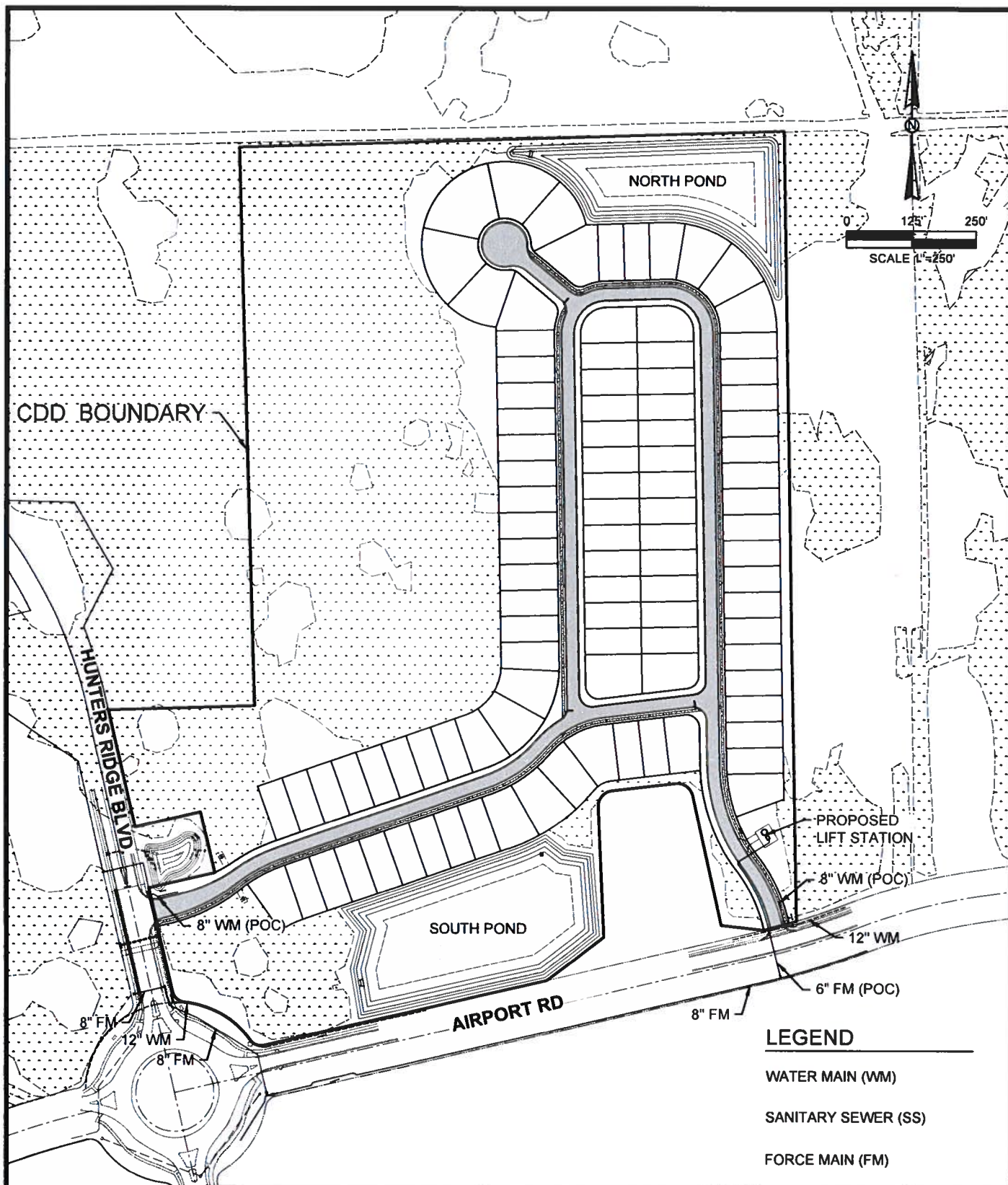


MADDEN
MOORHEAD & STOKES, LLC
CIVIL ENGINEERS

431 E. HORATIO AVE, SUITE 260 MAITLAND, FL 32751 (407) 629-8330
CERTIFICATE OF AUTHORIZATION NO. CA-0007723

JOB NUMBER:	23003	ORMOND STATION CDD	
SEC: 22 TWP: 14S RNG: 31E			
DRAWN BY:	JFV		
APPROVED BY:	DAR	LEGAL DESCRIPTION	
DATE:	02/02/2023		
SCALE:	NONE		

EXHIBIT 4



MADDEN
MOORHEAD & STOKES, LLC
CIVIL ENGINEERS

431 E. HORATIO AVE, SUITE 260 MAITLAND, FL 32751 (407) 629-8330
 CERTIFICATE OF AUTHORIZATION NO. CA-0007723

JOB NUMBER:	23003
SEC: 22 TWP: 14S RNG: 31E	
DRAWN BY:	JFV
APPROVED BY:	DAR
DATE:	02/02/2023
SCALE:	1" = 250'

ORMOND STATION CDD

**EXISTING UTILITY
 MAP**

EXHIBIT 5

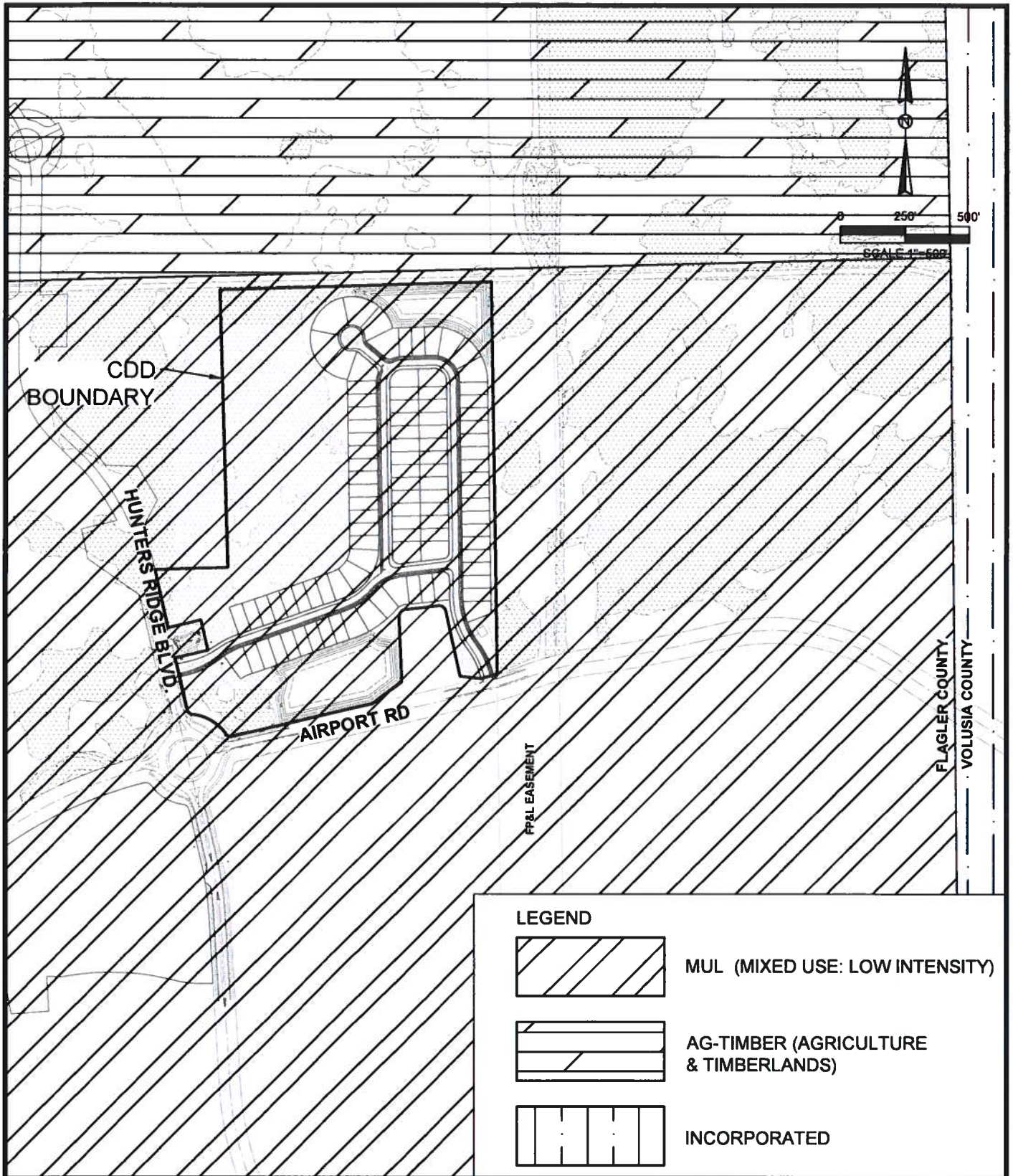
COST ESTIMATE

Improvement	Estimated Cost**	Financing / Construction Entity*	Final Owner / Maintenance Entity*
Stormwater Management System	\$ 874,000	CDD	CDD
Roadways	673,200	CDD	County
Storm Drainage (within ROW)	475,200	CDD	County
Potable Water	356,400	CDD	City of Ormond Beach
Sanitary Sewer	726,300	CDD	City of Ormond Beach
Reclaimed Water	247,500	CDD	City of Ormond Beach
Undergrounding of Conduit	30,000	CDD	CDD
Landscaping, Irrigation and Sod for Ponds	198,000	CDD	CDD
Hardscaping	250,000	CDD	CDD
Conservation Areas	0	CDD	CDD
Offsite Roadways and Utilities	0	N/A	N/A
Professional Services	198,000	N/A	N/A
Contingency	402,860	N/A	N/A
TOTAL	\$ 4,431,460		

*Alternatively, the Developer may elect to privately finance any of the improvements and transfer the improvements to a homeowners' association for ownership and maintenance purpose.

**All costs are estimates only and may vary by the time of construction.

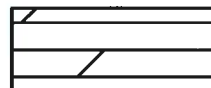
EXHIBIT 6



LEGEND



MUL (MIXED USE: LOW INTENSITY)



AG-TIMBER (AGRICULTURE
& TIMBERLANDS)



INCORPORATED



MADDEN
MOORHEAD & STOKES, LLC
CIVIL ENGINEERS

431 E. HORATIO AVE, SUITE 260 MAITLAND, FL 32751 (407) 629-8330
CERTIFICATE OF AUTHORIZATION NO. CA-0007723

JOB NUMBER: 23003

SEC: 22 TWP: 14S RNG: 31E

DRAWN BY: JFV

APPROVED BY: DAR

DATE: 02/02/2023

SCALE: 1" = 500'

ORMOND STATION CDD

**FUTURE LAND USE
MAP**

EXHIBIT 7

ORMOND STATION COMMUNITY DEVELOPMENT DISTRICT

Statement of Estimated Regulatory Costs

February 15, 2023



Provided by

Wrathell, Hunt and Associates, LLC
2300 Glades Road, Suite 410W
Boca Raton, FL 33431
Phone: 561-571-0010
Fax: 561-571-0013
Website: www.whhassociates.com

STATEMENT OF ESTIMATED REGULATORY COSTS

1.0 Introduction

1.1 Purpose and Scope

This Statement of Estimated Regulatory Costs ("SERC") supports the petition to establish the Ormond Station Community Development District ("District") in accordance with the "Uniform Community Development District Act of 1980," Chapter 190, Florida Statutes (the "Act"). The proposed District will comprise approximately 39.835 +/- acres of land located within Flagler County, Florida (the "County") and is projected to contain approximately 99 residential dwelling units, which will make up the Ormond Station development ("Project"). The limitations on the scope of this SERC are explicitly set forth in Section 190.002(2)(d), Florida Statutes ("F.S.") (governing the District establishment) as follows:

"That the process of establishing such a district pursuant to uniform general law be fair and based only on factors material to managing and financing the service delivery function of the district, so that any matter concerning permitting or planning of the development is not material or relevant (emphasis added)."

1.2 Overview of the Ormond Station Community Development District

The District is designed to provide public infrastructure, services, and facilities, along with operation and maintenance of the same, to a master planned residential development currently anticipated to contain a total of approximately 99 residential dwelling units. Tables 1 and 2 under Section 5.0 detail the improvements and ownership/maintenance responsibilities the proposed District is anticipated to construct, operate and maintain.

A community development district ("CDD") is an independent unit of special purpose local government authorized by the Act to plan, finance, construct, operate and maintain community-wide infrastructure in planned community developments. CDDs provide a "solution to the state's planning, management and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and their taxpayers." Section 190.002(1)(a), F.S.

A CDD is not a substitute for the local, general purpose government unit, i.e., the city or county in which the CDD lies. A CDD does not have the permitting, zoning or policing powers possessed by general purpose governments. A CDD is an alternative means of financing, constructing, operating and maintaining public infrastructure for developments, such as Ormond Station.

1.3 Requirements for Statement of Estimated Regulatory Costs

Section 120.541(2), F.S., defines the elements a statement of estimated regulatory costs must contain:

(a) An economic analysis showing whether the rule directly or indirectly:

1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the

implementation of the rule;

2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule; or

3. Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule.

(b) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

(c) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues.

(d) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.

(e) An analysis of the impact on small businesses as defined by s. 288.703, and an analysis of the impact on small counties and small cities as defined in s. 120.52. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses. (Flagler County, according to Census 2020, has a population of 115,378; therefore, it is not defined as a small county for the purposes of this requirement.)

(f) Any additional information that the agency determines may be useful.

(g) In the statement or revised statement, whichever applies, a description of any regulatory alternatives submitted under paragraph (1)(a) and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

Note: the references to "rule" in the statutory requirements for the Statement of Estimated Regulatory Costs also apply to an "ordinance" under section 190.005(2)(a), F.S.

- 2.0 An economic analysis showing whether the ordinance directly or indirectly:**
- 1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance;**
 - 2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance; or**
 - 3. Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance.**

The ordinance establishing the District is not anticipated to have any direct or indirect adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation. Any increases in regulatory costs, principally the anticipated increases in transactional costs as a result of imposition of special assessments by the District will be the direct result of facilities and services provided by the District to the landowners within the District. However, as property ownership in the District is voluntary and all additional costs will be disclosed to prospective buyers prior to sale, such increases should be considered voluntary, self-imposed and offset by benefits received from the infrastructure and services provided by the District.

2.1 Impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance.

The purpose for establishment of the District is to provide public facilities and services to support the development of a new, master planned residential development. The development of the approximately 39.835 +/- acres anticipated to be within the District will promote local economic activity, create local value, lead to local private sector investment and is likely to result in local private sector employment and/or local job creation.

Establishment of the District will allow a systematic method to plan, fund, implement, operate and maintain, for the benefit of the landowners within the District, various public facilities and services. Such facilities and services, as further described in Section 5, will allow for the development of the land within the District. The provision of District's infrastructure and the subsequent development of land will generate private economic activity, economic growth, investment and employment, and job creation. The District intends to use proceeds of indebtedness to fund construction of public infrastructure, which will be constructed by private firms, and once constructed, is likely to use private firms to operate and maintain such infrastructure and provide services to the landowners and residents of the District. The private developer of the land in the District will use its private funds to conduct the private land development and construction of an anticipated approximately 99 residential dwelling units, the construction, sale, and continued use/maintenance of which will involve private firms. While similar economic growth, private sector job creation or employment, or private sector investment could be achieved in absence of the District by the private sector alone, the fact that the establishment of the District is initiated by the private developer means that the private developer considers the establishment and continued operation of the District as beneficial to the process of land development and the future economic activity taking place within the District, which in turn will lead directly or indirectly to economic growth, likely private sector job growth and/or support private

sector employment, and private sector investments.

2.2 Impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance.

When assessing the question of whether the establishment of the District is likely to directly or indirectly have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation, one has to compare these factors in the presence and in the absence of the District in the development. When the question is phrased in this manner, it can be surmised that the establishment of the District is likely to not have a direct or indirect adverse impact on business competitiveness, productivity, or innovation versus that same development without the District. Similar to a purely private solution, District contracts will be bid competitively as to achieve the lowest cost/best value for the particular infrastructure or services desired by the landowners, which will ensure that contractors wishing to bid for such contracts will have to demonstrate to the District the most optimal mix of cost, productivity and innovation. Additionally, the establishment of the District for the development is not likely to cause the award of the contracts to favor non-local providers any more than if there was no District. The District, in its purchasing decisions, will not vary from the same principles of cost, productivity and innovation that guide private enterprise.

2.3 Likelihood of an increase in regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the ordinance.

The establishment of the District will not increase any regulatory costs of the State by virtue that the District will be one of many already existing similar districts within the State. As described in more detail in Section 4, the proposed District will pay a one-time filing fee to the County to offset any expenses that the County may incur in holding a local public hearing on the petition. Similarly, the proposed District will pay annually the required Special District Filing Fee, which fee is meant to offset any State costs related to its oversight of all special districts in the State.

The establishment of the District will, however, directly increase regulatory costs to the landowners within the District. Such increases in regulatory costs, principally the anticipated increases in transactional costs as a result of likely imposition of special assessments and use fees by the District, will be the direct result of facilities and services provided by the District to the landowners within the District. However, as property ownership in the District is completely voluntary, all current property owners must consent to the establishment of the District and all initial prospective buyers will have such additional transaction costs disclosed to them prior to sale, as required by State law. Such costs, however, should be considered voluntary, self-imposed, and as a tradeoff for the enhanced service and facilities provided by the District.

The District will incur overall operational costs related to services for infrastructure maintenance, landscaping, amenity operation and similar items. In the initial stages of development, the costs will likely be minimized. These operating costs will be funded by the landowners through direct funding agreements or special assessments levied by the District. Similarly, the District may incur costs associated with the issuance and repayment of special assessment revenue bonds. While these costs in the aggregate may approach the stated threshold over a five-year period, this would not be unusual for a Project of this nature and the infrastructure and services proposed to be provided by the District will

be needed to serve the Project regardless of the existence of the District. Thus, the District-related costs are not additional development costs. Due to the relatively low cost of financing available to CDDs, due to the tax-exempt nature of CDD debt, certain improvements can be provided more efficiently by the District than by alternative entities. Furthermore, it is important to remember that such costs would be funded through special assessments paid by landowners within the District, and would not be a burden on the taxpayers outside the District nor can the District debt be a debt of the County or the State.

3.0 A good faith estimate of the number of individuals and entities likely to be required to comply with the ordinance, together with a general description of the types of individuals likely to be affected by the ordinance.

The individuals and entities likely to be required to comply with the ordinance or affected by the proposed action (i.e., adoption of the ordinance) can be categorized, as follows: 1) The State of Florida and its residents, 2) Flagler County and its residents, 3) current property owners, and 4) future property owners.

a. The State of Florida

The State of Florida and its residents and general population will not incur any compliance costs related to the establishment and on-going administration of the District, and will only be affected to the extent that the State incurs those nominal administrative costs outlined herein. The cost of any additional administrative services provided by the State as a result of this project will be incurred whether the infrastructure is financed through a CDD or any alternative financing method.

b. Flagler County, Florida

The County and its residents not residing within the boundaries of the District will not incur any compliance costs related to the establishment and on-going administration of the District other than any one-time administrative costs outlined herein, which will be offset by the filing fee submitted to the County. Once the District is established, these residents will not be affected by adoption of the ordinance. The cost of any additional administrative services provided by the County as a result of this development will be incurred whether the infrastructure is financed through the District or any alternative financing method.

c. Current Property Owners

The current property owners of the lands within the proposed District boundaries will be affected to the extent that the District allocates debt for the construction of infrastructure and undertakes operation and maintenance responsibility for that infrastructure.

d. Future Property Owners

The future property owners are those who will own property in the proposed District. These future property owners will be affected to the extent that the District allocates debt for the construction of infrastructure and undertakes operation and maintenance responsibility for that infrastructure.

The proposed District will serve land that comprises an approximately 39.835 +/- acre master planned residential development currently anticipated to contain a total of approximately 99 residential dwelling

units, although the development plan can change. Assuming an average density of 3.5 persons per residential dwelling unit, the estimated residential population of the proposed District at build out would be approximately 347 +/- and all of these residents as well as the landowners within the District will be affected by the ordinance. The County, the proposed District and certain state agencies will also be affected by or required to comply with the ordinance as more fully discussed hereafter.

4.0 A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed ordinance, and any anticipated effect on state or local revenues.

The County is establishing the District by ordinance in accordance with the Act and, therefore, there is no anticipated effect on state or local revenues.

4.1 Costs to Governmental Agencies of Implementing and Enforcing Ordinance

Because the result of adopting the ordinance is the establishment of an independent local special purpose government, there will be no significant enforcing responsibilities of any other government entity, but there will be various implementing responsibilities which are identified with their costs herein.

State Governmental Entities

The cost to state entities to review or enforce the proposed ordinance will be very modest. The District comprises less than 2,500 acres and is located within the boundaries of Flagler County. Therefore, the County (and not the Florida Land and Water Adjudicatory Commission) will review and act upon the Petition to establish the District, in accordance with Section 190.005(2), F.S. There are minimal additional ongoing costs to various state entities to implement and enforce the proposed ordinance. The costs to various state entities to implement and enforce the proposed ordinance relate strictly to the receipt and processing of various reports that the District is required to file with the State and its various entities. Appendix A lists the reporting requirements. The costs to those state agencies that will receive and process the District's reports are minimal because the District is only one of many governmental units that are required to submit the various reports. Therefore, the marginal cost of processing one additional set of reports is inconsequential. Additionally, pursuant to section 189.064, F.S., the District must pay an annual fee to the State of Florida Department of Economic Opportunity which offsets such costs.

Flagler County, Florida

The proposed land for the District is located within Flagler County, Florida and consists of less than 2,500 acres. The County and its staff may process, analyze, conduct a public hearing, and vote upon the petition to establish the District. These activities will absorb some resources; however, these costs incurred by the County will be modest for a number of reasons. First, review of the petition to establish the District does not include analysis of the project itself. Second, the petition itself provides most, if not all, of the information needed for a staff review. Third, the County already possesses the staff needed to conduct the review without the need for new staff. Fourth, there is no capital required to review the petition. Fifth, the potential costs are offset by a filing fee included with the petition to offset any expenses the County may incur in the processing of this petition. Finally, the County already processes similar petitions, though for entirely different subjects, for land uses and zoning changes that are far more complex than the petition to establish a community development district.

The annual costs to the County, because of the establishment of the District, are also very small. The District is an independent unit of local government. The only annual costs the County faces are the minimal costs of receiving and reviewing the reports that the District is required to provide to the County, or any monitoring expenses the County may incur if it establishes a monitoring program for governmental entities.

4.2 Impact on State and Local Revenues

Adoption of the proposed ordinance will have no negative impact on state or local revenues. A CDD is an independent unit of local government. It is designed to provide infrastructure facilities and services to serve the development project and it has its own sources of revenue. No state or local subsidies are required or expected.

Any non-ad valorem assessments levied by the District will not count against any millage caps imposed on other taxing authorities providing services to the lands within the District. It is also important to note that any debt obligations the District may incur are not debts of the State of Florida or any other unit of local government, including the County. By Florida law, debts of the District are strictly its own responsibility.

5.0 A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the ordinance.

Table 1 provides an outline of the various facilities and services the proposed District may provide. Financing for these facilities is projected to be provided by the District.

Table 2 illustrates the estimated costs of construction of the capital facilities, outlined in Table 1. Total costs of construction for those facilities that may be provided are estimated to be approximately \$4,431,460. The District may levy non-ad valorem special assessments (by a variety of names) and may issue special assessment bonds to fund the costs of these facilities. These bonds would be repaid through non-ad valorem special assessments levied on all developable properties in the District that may benefit from the District's infrastructure program as outlined in Table 2.

Prospective future landowners in the proposed District may be required to pay non-ad valorem special assessments levied by the District to provide for facilities and secure any debt incurred through bond issuance. In addition to the levy of non-ad valorem special assessments which may be used for debt service, the District may also levy a non-ad valorem assessment to fund the operations and maintenance of the District and its facilities and services. However, purchasing a property within the District or locating in the District by new residents is completely voluntary, so, ultimately, all landowners and residents of the affected property choose to accept the non-ad valorem assessments as a tradeoff for the services and facilities that the District will provide. In addition, state law requires all assessments levied by the District to be disclosed by the initial seller to all prospective purchasers of property within the District.

Table 1
ORMOND STATION
COMMUNITY DEVELOPMENT DISTRICT
Proposed Facilities and Services

FACILITY	FUNDED BY	OWNED BY	MAINTAINED BY
Stormwater Management Systems	CDD	CDD	CDD
Roadways	CDD	County	County
Storm Drainage (within ROW)	CDD	County	County
Potable Water	CDD	City of Ormond Beach	City of Ormond Beach
Sanitary Sewer	CDD	City of Ormond Beach	City of Ormond Beach
Reclaimed Water	CDD	City of Ormond Beach	City of Ormond Beach
Undergrounding of Conduit	CDD	CDD	CDD
Landscaping, Irrigation and Sod for Ponds	CDD	CDD	CDD
Hardscaping	CDD	CDD	CDD
Conservation Areas	CDD	CDD	CDD

A CDD provides the property owners with an alternative mechanism of providing public services; however, special assessments and other impositions levied by the District and collected by law represent the transactional costs incurred by landowners as a result of the establishment of the District. Such transactional costs should be considered in terms of costs likely to be incurred under alternative public and private mechanisms of service provision, such as other independent special districts, County or its dependent districts, or County management but financing with municipal service benefit units and municipal service taxing units, or private entities, all of which can be grouped into three major categories: public district, public other, and private.

Table 2
ORMOND STATION
COMMUNITY DEVELOPMENT DISTRICT
Estimated Costs of Construction

CATEGORY	COST
Stormwater Management Systems	\$874,000
Roadways	\$673,200
Storm Drainage (within ROW)	\$475,200
Potable Water	\$356,400
Sanitary Sewer	\$726,300
Reclaimed Water	\$247,500
Undergrounding of Conduit	\$30,000
Landscaping, Irrigation and Sod for Ponds	\$198,000
Hardscaping	\$250,000
Professional Services	\$198,000
Contingency	\$402,860
Total	\$4,431,460

With regard to the public services delivery, dependent and other independent special districts can be used to manage the provision of infrastructure and services, however, they are limited in the types of services they can provide, and likely it would be necessary to employ more than one district to provide all services needed by the development.

Other public entities, such as counties, are also capable of providing services, however, their costs in connection with the new services and infrastructure required by the new development and, transaction costs, would be borne by all taxpayers, unduly burdening existing taxpayers. Additionally, other public entities providing services would also be inconsistent with the State's policy of "growth paying for growth".

Lastly, services and improvements could be provided by private entities. However, their interests are primarily to earn short-term profits and there is no public accountability. The marginal benefits of tax-exempt financing utilizing CDDs would cause the CDD to utilize its lower transactional costs to enhance the quality of infrastructure and services.

In considering transactional costs of CDDs, it shall be noted that occupants of the lands to be included within the District will receive three major classes of benefits.

First, those residents in the District will receive a higher level of public services which in most instances will be sustained over longer periods of time than would otherwise be the case.

Second, a CDD is a mechanism for assuring that the public services will be completed concurrently with development of lands within the development. This satisfies the revised growth management legislation, and it assures that growth pays for itself without undue burden on other consumers. Establishment of the District will ensure that these landowners pay for the provision of facilities, services and improvements to these lands.

Third, a CDD is the sole form of local governance which is specifically established to provide CDD landowners with planning, construction, implementation and short and long-term maintenance of public infrastructure at sustained levels of service.

The cost impact on the ultimate landowners in the development is not the total cost for the District to provide infrastructure services and facilities. Instead, it is the incremental costs above, if applicable, what the landowners would have paid to install infrastructure via an alternative financing mechanism.

Consequently, a CDD provides property owners with the option of having higher levels of facilities and services financed through self-imposed revenue. The District is an alternative means to manage necessary development of infrastructure and services with related financing powers. District management is no more expensive, and often less expensive, than the alternatives of various public and private sources.

6.0 An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.

There will be little impact on small businesses because of the establishment of the District. If anything, the impact may be positive because the District must competitively bid all of its contracts and competitively negotiate all of its contracts with consultants over statutory thresholds. This affords small businesses the opportunity to bid on District work.

Flagler County has a population of 115,378 according to the Census 2020 conducted by the United States Census Bureau and is therefore not defined as a "small" county according to Section 120.52, F.S. It can be reasonably expected that the establishment of community development district for the Ormond Station development will not produce any marginal effects that would be different from those that would have occurred if the Ormond Station development was developed without a community development district established by the County.

7.0 Any additional useful information.

The analysis provided above is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the Petitioner's Engineer and other professionals associated with the Petitioner.

In relation to the question of whether the proposed Ormond Station Community Development District is the best possible alternative to provide public facilities and services to the project, there are several additional factors which bear importance. As an alternative to an independent district, the County could establish a dependent district for the area or establish an MSBU or MSTU. Either of these alternatives could finance the improvements contemplated in Tables 1 and 2 in a fashion similar to the proposed District.

There are a number of reasons why a dependent district is not the best alternative for providing public facilities and services to the Ormond Station development. First, unlike a CDD, this alternative would require the County to administer the project and its facilities and services. As a result, the costs for these services and facilities would not be directly and wholly attributed to the land directly benefiting from them, as the case would be with a CDD. Administering a project of the size and complexity of the development program anticipated for the Ormond Station development is a significant and expensive undertaking.

Second, a CDD is preferable from a government accountability perspective. With a CDD, residents and landowners in the District would have a focused unit of government ultimately under their direct control. The CDD can then be more responsive to resident needs without disrupting other City responsibilities. By contrast, if the County were to establish and administer a dependent special district, then the residents and landowners of the Ormond Station development would take their grievances and desires to the County Commission meetings.

Third, any debt of an independent CDD is strictly that CDD's responsibility. While it may be technically true that the debt of a County-established, dependent special district is not strictly the County's responsibility, any financial problems that a dependent special district may have may reflect on the County. This will not be the case if a CDD is established.

Another alternative to a CDD would be for a Property Owners' Association (POA) to provide the infrastructure as well as operations and maintenance of public facilities and services. A CDD is superior to a POA for a variety of reasons. First, unlike a POA, a CDD can obtain low-cost financing from the municipal capital market. Second, as a government entity a CDD can impose and collect its assessments along with other property taxes on the County's real estate tax bill. Therefore, the District is far more assured of obtaining its needed funds than is a POA. Third, the proposed District is a unit of local government. This provides a higher level of transparency, oversight and accountability and the CDD has the ability to enter into interlocal agreements with other units of government.

8.0 A description of any regulatory alternatives submitted under section 120.541(1)(a), F.S., and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed ordinance.

No written proposal, statement adopting an alternative or statement of the reasons for rejecting an alternative have been submitted.

Based upon the information provided herein, this Statement of Estimated Regulatory Costs supports the petition to establish the Ormond Station Community Development District.

APPENDIX A
LIST OF REPORTING REQUIREMENTS

REPORT	FL. STATUTE CITATION	DATE
Annual Financial Audit	190.008/218.39	9 months after end of Fiscal Year
Annual Financial Report	190.008/218.32	45 days after the completion of the Annual Financial Audit but no more than 9 months after end of Fiscal Year
TRIM Compliance Report	200.068	no later than 30 days following the adoption of the property tax levy ordinance/resolution (if levying property taxes)
Form 1 - Statement of Financial Interest	112.3145	within 30 days of accepting the appointment, then every year thereafter by 7/1 (by "local officers" appointed to special district's board); during the qualifying period, then every year thereafter by 7/1 (by "local officers" elected to special district's board)
Public Facilities Report	189.08	within one year of special district's creation; then annual notice of any changes; and updated report every 7 years, 12 months prior to submission of local government's evaluation and appraisal report
Public Meetings Schedule	189.015	quarterly, semiannually, or annually
Bond Report	218.38	when issued; within 120 days after delivery of bonds
Registered Agent	189.014	within 30 days after first meeting of governing board
Proposed Budget	190.008	annually by June 15
Adopted Budget	190.008	annually by October 1
Public Depositor Report	280.17	annually by November 30
Notice of Establishment	190.0485	within 30 days after the effective date of an ordinance establishing the District
Notice of Public Financing	190.009	file disclosure documents in the property records of the county after financing

EXHIBIT 8

AUTHORIZATION OF AGENT

This letter shall serve as a designation of Jere Earlywine of Kutak Rock LLP to act as agent for Petitioner, D.R. Horton, Inc., with regard to any and all matters pertaining to the Petition to Establish the Ormond Station Community Development District before the Board of County Commissioners of Flagler County, Florida and pursuant to the "Uniform Community Development District Act of 1980," Chapter 190, *Florida Statutes*, Section 190.156(1), *Florida Statutes*. This authorization shall remain in effect until revoked in writing.

Witnessed:

D.R. HORTON, INC.

[Signature]
Print Name: Alexander Leachman

[Signature]
Print Name: Christine Hurst

[Signature]
By: Matthew Stolz
Its: Asst. Sec.

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 1st day of March, 2023, by Matt Stolz, as Asst. Sec. of DR Horton, on its behalf. He ☒ is personally known to me or ☐ produced _____ as identification.

[Signature]
Notary Public, State of Florida



Sydney D. Kendrick
Notary Public
State of Florida
Comm# HH089057
Expires 2/3/2025

NOTICE OF ADOPTION OF AN ORDINANCE CREATING THE ORMOND STATION COMMUNITY DEVELOPMENT DISTRICT

Pursuant to Section 190.005(1)(d), Florida Statutes, the Flagler County Board of County Commissioners hereby provide notice of consideration of a petition submitted by D.R. Horton, Inc., seeking the creation of the Ormond Station Community Development District and possible adoption of the following Ordinance titled similar to:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, ESTABLISHING THE ORMOND STATION COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; PROVIDING A TITLE; PROVIDING FINDINGS; CREATING AND NAMING THE DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESCRIBING THE FUNCTIONS AND POWERS OF THE DISTRICT; DESIGNATING FIVE PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

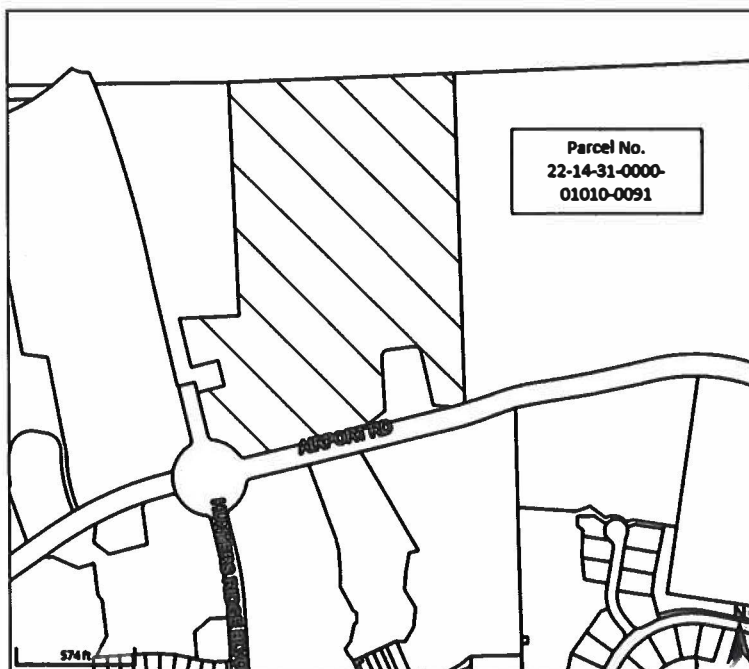
The proposed District is located entirely within Flagler County, Florida and covers approximately 39.83 acres of land, more or less. The site is generally located north of, and adjacent to, Airport Road and west of the Flagler County/Volusia County border.

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

BOARD OF COUNTY COMMISSIONERS – Monday, May 15, 2023 at 5:30 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Blvd., Bunnell, Florida.

All affected units of general-purpose local government and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition. Anyone wishing to express their opinion may attend, telephone 386-313-4009 or write to: Flagler County Planning Department, 1769 E. Moody Blvd, Building 2, Bunnell, FL 32110 or email to planningdept@flaglercounty.gov. Copies of the proposal, supporting data and analysis, staff reports and other pertinent information are available for review between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday at the Flagler County Planning & Zoning Dept., 1769 East Moody Boulevard, Building 2, Bunnell, Florida 32110.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE PLANNING DEPARTMENT AT LEAST 48 HOURS PRIOR TO THE MEETING.

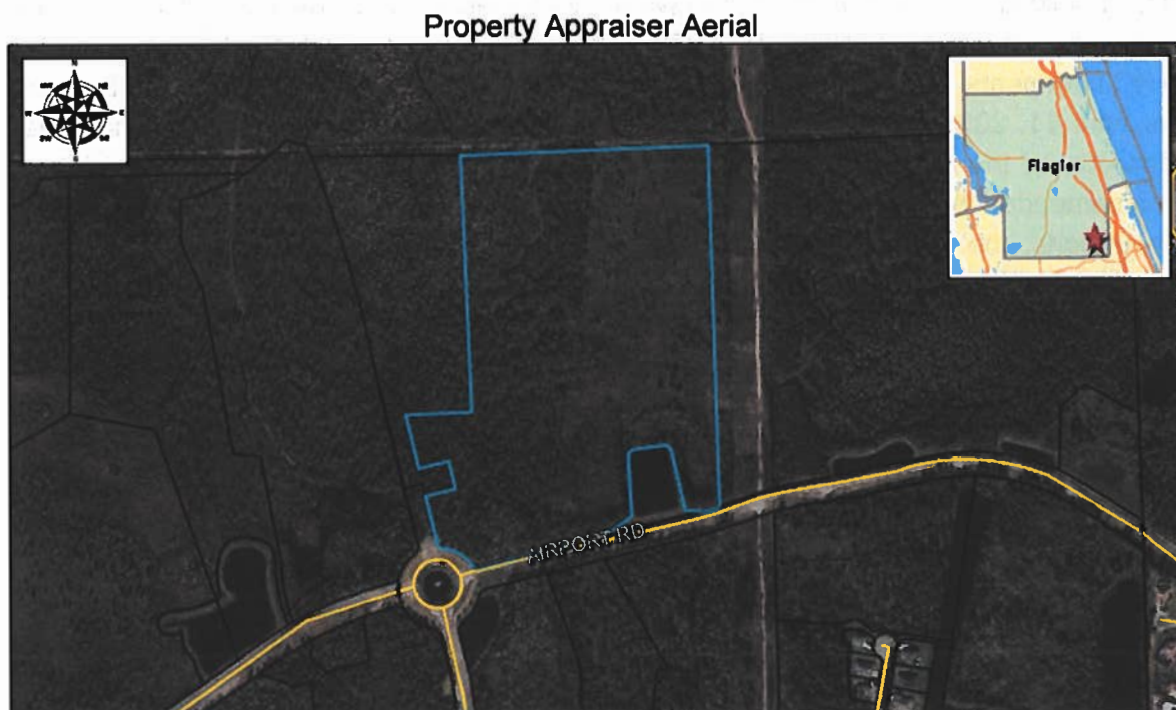


**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING / AGENDA ITEM #9f**

SUBJECT: QUASI-JUDICIAL – Application #3346 – Request for Approval of a PUD (Planned Unit Development) Site Development Plan for Groveside Model Homes. Parcel Number 22-14-31-0000-01010-0110; 39.81+/- acres. Owner: ADJ Hunters Ridge, LLC; Applicant: D. R. Horton (Project #2023020047).

DATE OF MEETING: May 15, 2023

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The subject parcel lies North of Airport Road northeast of the roundabout:



The applicant on behalf of the owner filed an application and related documents with the County on February 10, 2023. This request seeks approval of a Planned Unit Development (PUD) Site Development Plan (SDP) for two model homes developed as a temporary sales center within the Groveside Subdivision Plat. Groveside is formerly known as the Celedine PUD.

As proposed, the model home and temporary sales center site will consist of three lots (lots 18, 19, and 20). The Celedine PUD Development Agreement (adopted through Ordinance No. 2017-06) allows for model homes to be permitted following final plat approval. A maximum of five lots may be used for model homes and a maximum of three model homes may be used as temporary sales centers. The Groveside at Ormond

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING / AGENDA ITEM #9f**

Station final subdivision plat was approved by the Board of County Commissioners at its April 17, 2023 regular meeting.

This PUD Site Development Plan application provides for the development of a temporary sales center on lots 18, 19, and 20, specifically providing for the development of an improved parking lot on Lot 18 to coincide with the model home development occurring on Lots 19 and 20. When the temporary sales center discontinues its use, the temporary improvements to all three lots will be removed and the lots will be developed as single-family residences.

The application for the PUD Site Development Plan was discussed by the Technical Review Committee on March 15, 2023. The applicant has satisfactorily addressed the TRC comments. This request was reviewed by the Planning and Development Board at its April 11, 2023. The Planning and Development Board unanimously recommended approval of the request. In its motion recommending approval, the Board additionally recommended that: a timeframe be added for the sales center that would possibly include extensions; the lots no longer used as a sales center must return to a single-family dwelling; and the parking lot is removed and the lot restored. However, staff was reluctant at the Board meeting to advise the Board that additional conditions – beyond those listed in the Celedine PUD Development Agreement, as adopted through Ordinance No. 2017-06 – could be added.

BCC review authority: Section 3.04.03, LDC, requires that the Board of County Commissioners review and approve, modify or deny PUD Site Development Plans following consideration of the Planning and Development Board's recommendations and the factual data presented during the public hearing in support of the request.

This agenda item is:

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

Public Notice: Public notice has been provided in accordance with Section 2.07.00 of the LDC.

STRATEGIC PLAN:

Focus Area: Effective Government

- Goal 2 – Build & Maintain Relationships to Support Effective & Efficient Government
 - Objective EG 2.3: Establish compatible policies, procedures, and other means to operate across county and municipal boundaries.

DEPARTMENT CONTACT: Growth Management, Adam Mengel, 386-313-4065

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING / AGENDA ITEM #9f**

OPTIONS FOR THE BOARD: The Board of County Commissioners may:

Approve the PUD Site Development Plan for a temporary sale center.

Deny the PUD Site Development Plan for a temporary sales center.

Continue the PUD Site Development Plan for a temporary sales center to a time and date certain.

ATTACHMENTS:

1. Technical Staff Report (TSR)
2. Proposed PUD Site Development Plan for Groveside Model Homes
3. Application and supporting documents
4. TRC review comments
5. Planning and Development Board 4-11-2023 regular meeting draft minutes (in part)
6. Public notice