

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

SUBJECT: QUASI-JUDICIAL – Request to Accept the Special Magistrate’s Report and Modify the Magistrate’s Recommendation to Enter into a Settlement Agreement between the County and Hammock Harbour, LLC; 5658 North Oceanshore Boulevard; Parcel Number: 40-10-31-3150-00000-0420; 4.26+/- acres. Owner: Robert Million, as Manager of Hammock Harbour, LLC; Agent: M. Scott Thomas, Burr & Forman LLP.

DATE OF MEETING: November 18, 2024

OVERVIEW/SUMMARY: This request is quasi-judicial in nature and requires disclosure of ex parte communication. The Hammock Harbour parcel lies West of North Oceanshore Boulevard (a/k/a SR A1A), East of the Intracoastal Waterway, and North of Hammock Hardware:



This agenda item is related to the resolution of a dispute between the County and the parcel owner, Hammock Harbour, LLC, regarding the development of the subject parcel as a dry stack marina. The dispute is related to Hammock Harbour’s site plan application, which was denied by staff earlier this year on the basis that a Special Exception would be required for the proposed dry stack marina use approval, as previously determined by the Planning and Development Board.

Following the site plan denial, Mr. Scott Thomas, Esq., filed an appeal with the County on behalf of Hammock Harbour, seeking relief through Section 70.51, Florida Statutes (the

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Florida Land Use and Environmental Dispute Resolution Act or FLUEDRA). The appeal initiated a mediation process culminating in a hearing before a Special Magistrate and the issuance of the Magistrate's Report and Recommendation to the Board of County Commissioners for a final decision.

The Magistrate found that the County's Planning and Development Board had overstepped its authority requiring a Special Exception for the proposed dry stack storage use based in substantial part on the documentary history and regulatory framework that are relevant to water-based commercial recreational uses including:

- A parcel-specific deed restriction for boat yard and related uses that was required by the Board of County Commissioners in conjunction with a previous rezoning of the site to C-2;
- Comprehensive Plan policy text for the placement of marinas on commercial lands adjoining water bodies, such as the Hammock Harbour parcel;
- Identification of the Hammock Harbour parcel within the County's Manatee Protection Plan as an appropriate site for a marina with wet- or dry-slips;
- Listing of "commercial recreational uses" as a permitted use in the Land Development Code within C-2 districts, coupled with the statutory definition of "recreational and commercial working waterfront"; and
- Florida Supreme Court decision pertaining to interpretation of ambiguous zoning codes to the benefit of property owners.

With the Magistrate concluding through the Magistrate's Report that the Special Exception is not required, the Magistrate recommended that:

- the Planning and Development Board sua sponte motion to reconsider the determination of use to correct the previous errant decision and find that the Special Exception is not needed for a dry stack storage use;
- the applicant utilize an electric or otherwise sound-attenuated forklift for its boat moving operations; and
- that the height of the fencing along the common parcel lines adjoining the residential parcels be increased from six feet to eight feet in height.

For the most part, the County staff concurs with the Magistrate's Report and Recommendation; however, as it relates to the Magistrate's recommendation to return to the Planning and Development Board for what amounts to a rehearing with a foregone conclusion, staff has instead opted to provide a draft Settlement Agreement for the Board's consideration that modifies the Magistrate's recommendation by removing the Planning and Development Board's correcting of its motion. The logic behind this approach is that there are no material gains through an additional process of returning to the Planning and Development Board for a mandatory, perfunctory correction of the motion. All of the pertinent facts and testimony from the parties have been laid bare through the Special Magistrate's mediation and hearing process: an additional Planning

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and Development Board step would amount to an unnecessary bureaucratic process. The same result will readily be achieved presently through the Settlement Agreement between the Board and Hammock Harbour. Moreover, FLUEDRA specifically states that the County Commission has the authority to modify the recommendation of the special magistrate and proceed to implement it by a development agreement consistent with the County's Land Development Code.

This agenda item is:

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

DEPARTMENT CONTACT: Adam Mengel, Growth Management Director (386) 313-4065, and Sean Moylan, Deputy County Attorney (386) 313-4056

OPTIONS FOR THE BOARD: The Board may:

Accept the Magistrate's Recommendation

Modify the Magistrate's Recommendation (County staff have prepared an Agreement between the County and the Property Owner to implement the Magistrate's Recommendation but without a Planning and Development Board reconsideration)

Reject the Magistrate's Recommendation

ATTACHMENTS:

1. Settlement Agreement including Special Magistrate's Report and Recommendation
2. Site Plan

SETTLEMENT AGREEMENT BETWEEN FLAGLER COUNTY AND HAMMOCK HARBOUR, LLC

THIS SETTLEMENT AGREEMENT (“Agreement”) is entered into by and between the Flagler County Board of County Commissioners, a political subdivision of the State of Florida, with an address of 1769 E. Moody Blvd., Bldg. 2, Bunnell, FL 32110 (“County”), and Hammock Harbour, LLC, a Florida limited liability company, with an address of 17 S. Waterview Drive, Palm Coast, FL 32137 (“Hammock Harbour”). The County and Hammock Harbour are sometimes referred to herein as “Parties”.

I. RECITALS

1. Hammock Harbour is the owner of that certain real property located at 5658 N. Oceanshore Blvd., Palm Coast, FL 32137, with a Parcel Identification Number 40-10-31-3150-00000-0420 (the “Property”).
2. Hammock Harbour seeks to construct a marina on the Property including dry-stack boat storage not to exceed 204 dry slips, a restaurant not to exceed 3880 square feet service area, and four commercial retail storefronts not to exceed 2690 square feet (the “Proposed Use”) as depicted in the Site Development Plan submitted to the Flagler County Technical Review Committee (the “TRC”) with an Application for Site Development Plan Less Than 5 Acres on July 11, 2023, which Site Plan is incorporated herein by reference (the “Site Plan”).
3. Based on prior action by the Flagler County Planning and Development Board (“Planning Board”) determining the Proposed Use of the Property is not prohibited within the Scenic Corridor Overlay District but required approval as a special exception under the County’s C-2 zoning district, the TRC denied Hammock Harbour’s application.
4. In response to the TRC action, Hammock Harbour invoked the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51, Florida Statutes, (“FLUEDRA”).
5. Special Magistrate Terrence E. Schmidt, Esq., presided over the FLUEDRA proceedings and issued a Report and Recommendation on October 29, 2024, finding that the prior determination of the Planning Board and the action of the TRC to be unreasonable and to unfairly burden Hammock Harbour’s use of the Property.

II. LAND USE AGREEMENT

For good and valuable consideration and the mutual covenants herein, which the Parties agree are adequate, the Parties agree as follows:

1. The above recitals are incorporated herein. The Special Magistrate’s Report and Recommendation, attached hereto as Exhibit A, is incorporated as if set out fully herein. The County expressly adopts the Special Magistrate’s findings of facts.

2. Hammock Harbour's Proposed Use of the Property is consistent with the County's Comprehensive Plan, Land Development Regulations, and Manatee Protection Plan. Moreover, Hammock Harbour's Proposed Use is permissible by right as a commercial-recreational use of the land. The Proposed Use is also consistent with the strictures of the Scenic Corridor Overlay District.
3. This Agreement supersedes and nullifies the use determination of the Planning Board of August 10, 2021 and the TRC's denial of Hammock Harbour's July 11, 2023 application.
4. Hammock Harbour's Proposed Use and Site Plan complies with the Flagler County Land Development Code and the strictures of the Scenic Corridor Overlay District. Hammock Harbour may apply for land development and building permits to construct the Proposed Use consistent with the Site Plan.
5. Hammock Harbour specifically acknowledges and agrees that its use of the Property pursuant to the Site Plan must comply with all applicable noise ordinances.
6. Hammock Harbour also agrees that the height of the buffer between the Property and neighboring parcels to the north and south shall be no less than six feet and no more than eight feet as determined in consultation with Flagler County's Planning & Zoning Division.
7. Hammock Harbour will provide 124 parking spaces, including 5 ADA parking spots, for the Proposed Use as illustrated in the Site Plan.
8. Hammock Harbour's use of the Property shall be consistent with all applicable laws, rules, and regulations.

III. MISCELLANEOUS PROVISIONS

1. This Agreement encompasses the complete agreement between the Parties with regard to the subject matter hereof. This Agreement may only be modified by a written instrument executed by duly authorized representatives of the Parties. If any portion of this Agreement is found void by a court of competent jurisdiction, it shall not affect the validity of the remaining portions of the Agreement.
2. This Agreement is not intended to create any rights in third parties and shall not be construed as a consent by the County to be sued by third parties.
3. Each Party shall bear its own fees and costs.
4. This Agreement shall take effect upon the date of the last Party to execute it, as indicated below. The County shall record this Agreement in the Official Records of Flagler County.

[Signature Pages to Follow.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by its duly authorized representatives on the dates indicated below.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

Andrew S. Dance, Chair

Date: _____

1769 E. Moody Blvd., Bldg. 2, Bunnell, FL 32110

ATTEST:

Tom Bexley, Clerk of the Circuit Court and Comptroller

1769 E. Moody Blvd., Bldg. 1, Bunnell, FL 32110

APPROVED AS TO LEGAL FORM:

Sean S. Moylan Digitally signed by Sean S. Moylan
Date: 2024.11.07 16:28:39 -05'00'

Sean S. Moylan, Deputy County Attorney

1769 E. Moody Blvd., Bldg. 2, Bunnell, FL 32110

[Signature Page to Follow.]

HAMMOCK HARBOUR, LLC

Robert B. Million, Manager

Date: _____

17 S. Waterview Drive, Palm Coast, FL 32137

STATE OF FLORIDA)
COUNTY OF _____)

This document was acknowledged before me, by means of physical presence or remote notarization, by Robert B. Million, as manager of Hammock Harbour, LLC, this ____ day of _____ 2024. Such person is personally known to me or produced valid government-issued identification.

(SEAL)

Notary Public

[Exhibit A to Follow.]

**Section 70.51, Florida Statutes,
Florida Land Use and Environmental
Dispute Resolution Act Proceeding**

HAMMOCK HARBOUR, LLC, a Florida
limited liability company,

Petitioner

v.

FLAGLER COUNTY, a political subdivision
of the State of Florida,

Respondent

**Special Magistrate’s Report and Recommendation
in the Section 70.51, Florida Statutes, Proceeding
Initiated by Hammock Harbour, LLC, following
Flagler County’s April 1, 2024, Denial of Hammock
Harbour’s Application for Site Plan Approval**

INTRODUCTION

Pursuant to Section 70.51, Florida Statutes, Terrance E. Schmidt, as Special Magistrate, held a hearing in this proceeding on Monday, May 30, 2024, after due notice to the parties and all substantially affected persons. The hearing was held for the purpose of determining whether Petitioner Hammock Harbour, LLC (“Hammock Harbour,” “Owner,” or “Petitioner”) and Flagler County, Florida, (“County” or “Respondent”) could mediate their differences arising out of the April 1, 2024, decision by the County to deny Petitioner’s application for approval of its Site Development Plan Less Than 5 Acres for the development of a proposed marina on the property located at 5658 North Oceanshore Boulevard in unincorporated Flagler County. The mediation resulted in an impasse.

On July 16, 2024, the Special Magistrate held a second hearing to permit the Owner, County, and all interested persons to introduce evidence in support of their respective positions. The Owner, County, and counsel for the interested persons subsequently furnished the Special Magistrate with written memoranda in support of those positions. Having considered the evidence and argument of the parties and participants and the factors required to be considered under Section 70.51, Florida

Statutes, the Special Magistrate hereby issues this Report and Recommendation to the Flagler County Board of County Commissioners (“County Commission”).

THE SECTION 70.51 PROCESS

Section 70.51, Florida Statutes, is entitled Florida Land Use and Environmental Dispute Resolution Act (“FLEUDRA”). Under the act, if an owner believes that a governmental development order is unreasonable or unfairly burdens the use of the owner’s property, the owner may apply for relief under the statute. As used Section 70.51, the term “development order” means “any order. . . or regional governmental agency action, which is or will have the effect of granting, denying, or granting with conditions an application for a development permit.” “Development permit” is defined as; “ any building permit, zoning permit, subdivision approval, certification, special exception, variance, or any other similar action of local government, as well as any permit authorized to be issued under state law by state, regional, or local government which has the effect of authorizing the development of real property including, but not limited to, programs implementing chapters 125, 161, 163, 166, 187, 258, 372, 373, 378, 380, and 403.”

Under Section 70.51, the special magistrate does not act as an appellate court to determine whether the government’s decision is the correct legal decision. Nor does the process create a separate legal cause of action for the owner. Section 70.51(24). Rather, Section 70.51 tolls the time for the owner to bring judicial action so that the special magistrate can assist the government and the owner in determining if there is some mutually agreeable accommodation that can be reached that will avoid costly litigation between them.

The statute requires the special magistrate to first conduct a mediation at a public hearing. “The object of the hearing is to focus attention on the impact of the government action giving rise to the request for relief and to explore alternatives to the development order....” Section 70.51(17)(a).

Section 70.51(17) specifically provides that the special magistrate’s “first responsibility is to facilitate a resolution of the conflict between the owner and governmental entities to the end that some modification of the owner’s proposed use of the property or adjustment in the development order ... may be reached.” Section 70.51(17)(a). However, if the parties cannot reach an acceptable resolution, “the special magistrate shall consider the facts and circumstances set forth in the request for relief and any responses and any other information produced at the hearing in order to determine whether the action by the governmental entity ... is unreasonable or unfairly burdens the real property.” Section 70.51(17)(b)(emphasis added).

Section 70.51 specifically authorizes the special magistrate to consider, among other things:

- (a) The history of the real property, including when it was purchased, where it is located, ... and how it was initially used.
- (b) The history of the use of the real property, including what was developed on the property and by whom....
- (c) The history of ... land use controls [on the property]
- (d) The present nature and extent of the real property, including its natural ... characteristics.
- (e) The reasonable expectations of the owner at the time of acquisition ... under the regulations then in effect....
- (f) The public purpose sought to be achieved by the development order ...; whether the development order ... is necessary to the achievement of the public purpose; and whether there are alternative development orders that would achieve the public purpose and allow for reduced restrictions on the use of the property.

* * *

(h) Any other information determined relevant by the special magistrate.”

Section 70.51(19) provides that the special magistrate may, subject to the owner’s consent, “recommend one or more alternatives that protect the public interest served by the development order ... but allow for reduced restraints on the use of the owner’s real property, including but not limited to:

- 1. An adjustment of land development or permit standards or other provisions controlling the development or use of land.
- 2. Increases or modifications in the density, intensity, or use of areas of development.
- ...
- 6. Location on the least sensitive portion of the property.
- 7. Conditioning the amount of development or use permitted.
- ...
- 9. Issuance of the development order, a variance, special exception, or other extraordinary relief, including withdrawal of the enforcement action.

The special master’s recommendation is not binding on the parties; however, regardless of whether the governmental entity or owner accepts or rejects the special magistrate’s recommendation, the special magistrate’s determination that “the development order ... is unreasonable or unfairly burdens the use of the owner’s property may serve as an indication of sufficient hardship to support ... modifications, variances, or special exceptions to the application of ... [the] ordinances to the subject property” in a subsequent judicial proceeding. Section 70.51(25) (emphasis added); See also Bentley,

THE SPECIAL MAGISTRATE’S FINDINGS

Having considered the evidence, the law, arguments made by counsel for the parties and participants, and the elements of Section 70.51, Florida Statutes, required to be considered, the Special Magistrate makes the following findings:

**BACKGROUND FACTS REGARDING THE DISPUTE
BETWEEN THE OWNER AND THE COUNTY**

1.*¹ The Owner owns of the real property located at 5658 North Oceanshore Boulevard (or “State Road A1A”) in unincorporated Flagler County (the “Property”) with a Flagler County Parcel ID Number 40-10-31-3150-00000-0420.

2.* The Property, approximately 4.26 acres in size, lies within a mixed use vicinity and is bounded on the west by the Intracoastal Waterway, on the east by State Road A1A, on the north by a residence, and on the south by a hardware store and residence. The Property is also in close proximity to a water tower and associated facilities, a School District facility, and a Fire Station.

3.* The Property consists of three contiguous lots, each with 100 feet of frontage on State Road A1A on the east and 100 feet of frontage along the Intracoastal Waterway on the west. The lots are each 600 feet in depth as measured from the west right-of-way line of State Road A1A to the east right-of-way line of the Intracoastal Waterway. The northernmost lot is Lot 41; the center lot is Lot 42; and the southernmost lot is Lot 43 according to the plat of Jose Park Unit No. 2 recorded in the Public Records of Flagler County, Plat Book 3, Page 33.

4.* The Future Land Use Map designation of Lots 42 and 43 is Commercial High Intensity. The easternmost 200 feet of Lot 41 is also Commercial High Intensity. The remaining 400 feet of Lot 41 has two Future Land Use Map designations as follows: the southern 60’ strip is Commercial High Intensity, and the northern 40’ strip is Rural Residential. Thus, the overwhelming majority of the Property is Commercial High Intensity, and the northwestern 40 feet by 400 feet strip is Rural Residential.

5.* The zoning of the Property follows the same pattern. The majority of the Property is zoned C-2 (General Commercial and Shopping Center) while the northwestern strip measuring 40 feet by 400 feet is zoned (R-1) Rural Residential.

¹ The Owner and the County’s proposed findings were essentially the same with respect to many of the basic undisputed facts. Accordingly, the Special Magistrate has identified those undisputed facts with an * in this portion of his findings. The remaining findings in this section of the Report are generally consistent with the additional proposed findings submitted by the Owner with changes and additions by the Special Magistrate as he deemed appropriate.

6.* The portion of State Road A1A on which the Property lies is designated as a Florida and National Scenic Byway and is subject to an overlay zoning district (the "A1A Scenic Corridor Overlay District" or "Overlay District") codified within Flagler County's Land Development Code (the "LDC").

7. Between 1982 and 2014, the Property was utilized for boat manufacturing and repair. It has been vacant since. Hammock Harbour purchased the Property in August 2018 for \$835,000.00 and has since incurred costs for environmental cleanup, permitting, engineering and taxes.

8. The Property's current zoning was established in 2000 when the Flagler County Board of County Commissioners rezoned the Property as C-2 Commercial to allow expansion of the then-existing boat building business. In connection with the 2000 rezoning, Flagler County required the then-Owner to record a restrictive covenant restricting the use of the Property to "Boatyard and related uses." (emphasis added)

9. The Property is located within the "Preferred Category" for a "Boat Facility Siting" in the Flagler County Manatee Protection Plan approved by the County Commission in 2015. The Manatee Protection Plan identifies the Property as being "located on [a parcel] which could be expanded for use as a boating facility in the future" with the specific notation that the Property "is anticipated to be converted into a dry storage facility in the future [with] up to 200 dry slips." (emphasis added),

10. Hammock Harbour acquired the Property to develop a marina with dry-stack storage. Prior to closing on its purchase of the Property, Hammock Harbour sought and received confirmation from the Flagler County Growth Management Director, ("Growth Management Director" or "Planning Director")² that the Property's C-2 zoning permitted the development of a dry-stack boat storage marina facility based in part on his stated conclusion that the marina would not result in an increased intensity of use as compared to the former boat building operation.

11. Hammock Harbour closed on its purchase of the Property in reasonable reliance on the Growth Management Director's confirmation of the Property's permitted use under its C-2 zoning.

12* In 2019, Hammock Harbour submitted a site development plan to Flagler County with the intent to redevelop the Property as an indoor, dry boat storage and marina in accordance with the Property's zoning regulations, including the requirements of the Overlay District.

13* While the site plan was pending before County staff, the Hammock Community Association, Inc., a not-for-profit corporation (the "HCA"), appealed the

² Under LDC §2.01.02(b)(1), the Planning and Zoning Director is the county official charged with the responsibility to administer and enforce the Flagler County Land Development Code

decision of the County's Growth Management Director allowing the site development plan application to move forward for review. The HCA contended (i) the proposed use amounted to a "commercial warehouse," a use prohibited within the Overlay District, and (ii) the Planning Director's statement that the proposed use was no more intensive than the prior use was not supported by competent substantial evidence.

14.* In September 2019, the Flagler County Planning and Development Board ("Planning Board") heard the appeal and upheld the Growth Management Director's determination. The HCA appealed Planning Board's decision to the Board of County Commissioners ("County Commission"), which, in turn, upheld the decision of the Planning Board.

15.* The HCA then filed a Petition for Writ of Certiorari in the Circuit Court, and Hammock Harbour intervened. The Court quashed the decision of the Board of County Commissioners, finding that the initial decision of the Planning Board to uphold the Growth Management Director's determination that the proposed use was no more intensive than the prior use was not supported by competent substantial evidence³; however, the Court specifically declined to hold that the proposed boat storage was "Commercial Warehousing," a prohibited use in a C-2 zoning district, stating:

"The Court cannot extend its ruling to decide whether the boat storage facility is or is not a permitted use as Zoned (C-2) within the A1A Scenic Corridor Overlay."

16.* Hammock Harbour appealed to the District Court of Appeal, a second-tier certiorari review. The District Court denied Hammock Harbour's petition, leaving the Circuit Court's decision in place. The case was remanded for further action by the County; however, the Owner took no further action on its pending application for site plan approval.

17* It is significant that neither the Planning Board, the County Commission, the Circuit Court, nor the District Court of Appeal found the Owner's proposed use of the Property to be a prohibited use in C-2.

18* Hammock Harbour subsequently applied for a "use determination," by the Planning Board that marinas, including marinas with dry-stack boat storage, are permissible uses of C-2 zoned land. Hammock Harbour sought a use determination that its proposed marina with dry-stack storage was a permitted use in C-2 based on LDC §3.03(17)(B)(22), which allows:

³ The Special Magistrate can find no requirement under the LDC that the Growth Management Director's determination of an expressly permitted use in C-2 under LDC §3.03(17)(B) requires consideration of whether the proposed use is more or less intensive than a prior expressly permitted use in C-2. Rather, it appears to the Special Magistrate that the Growth Management Director's determination regarding intensity of the proposed use should not have been required or even relevant to his determination. Nevertheless, the Court's determination is apparently the law of the case with respect to a new determination by the Growth Management Director that the proposed marina is a permitted use under LDC §3.03(17)(B)(23) without further evidentiary support.

“[o]ther commercial uses of a nature similar to those listed may be permitted upon determination by the planning board that such uses are appropriate in the C-2 district. The standard industrial classification manual will be used as a reference for these determinations.”

Hammock Harbour argued that its intended marina use was “of a nature similar to” a “commercial recreational” use specifically permitted under LDC §3.03(17)(B)(23)(x).

19. Hammock Harbour’s owner testified without contradiction that he chose to seek a use determination under LDC §3.03(17)(B)(22) because County staff would not permit a hearing at which he could submit competent substantial evidence to support the Growth Management Director’s original determination. The Special Magistrate notes that LDC §3.03(17)(B)(22) is the only subsection of LDC §3.03(17)(B) that permits the Planning Board, rather than the Growth Management Director, to determine whether a proposed use is a permitted use under LDC §3.03(17)(B).

19* On August 10, 2021, the Planning Board held a hearing on the application and found marinas: (i) to be similar to other permitted uses in the C-2 district based on the definition of “marina” in the Standard Industrial Classification Manual as argued by the Owner (ii) not a “commercial warehouse” as defined in the NAICS manual as argued by HCA⁴ and therefore not prohibited within the Overlay District; and (iii) appropriate for the area of the Property because of its recreational component. The initial motion that was seconded only provided that marinas were a permitted use in C-2 as “a nature similar to those listed;” however, the board member who made the motion subsequently clarified his motion - but did not amend it – after discussion and just before the vote was taken to add the requirement that marinas were a permitted use only “by special exception.” The minutes of the meeting describe the motion approved as originally stated without the “special exception” clarification; however, on October 10, 2023 (23-1/2 months later),

⁴ At the July 16, 2024, hearing in this proceeding, HCA submitted a statement by Thad Crowe, AICP, senior land planner for St. Lucie County, Florida, who opined with respect to the Owner’s proposed project:

“The Standard Industrial Code classification describes Industry: 4493 – Marinas in the following words:

Establishments primarily engaged in operating marinas. These establishments ... store boats, and generally perform a range of other services....

Sub-categories under 4493 considered to be marinas include boat yards, storage and incidental repair; marine basins; and yacht basins. The proposed indoor dry boat stacked storage and marina fall into the SCI marine classification.” (emphasis added)

Accordingly, the statement supports the Planning Board’s finding that the Owner’s proposed use of the Property was as a marina and not a commercial warehouse.

without notice, the Planning Board voted to amend the minutes to add the requirement for a special exception to the language of the motion approved on August 10, 2021.⁵

20. Hammock Harbour argues that the actual vote was only on the original motion without the added special exception requirement because there was never a motion to amend the original motion. The County argues, consistent with the post-motion pre-vote discussion and the subsequently amended meeting minutes, that the vote included the special exception requirement. It seems clear to the Special Magistrate from the video of the meeting that the Commissioners understood they were voting on the revised motion. However, to the extent Robert's Rules of Order apply to Planning Board proceedings, the added special exception language constituted an amendment or subsidiary motion to the original motion and should have been seconded, discussed and voted on before a final vote on the original motion. See <https://www.doi.gov/sites/doi.gov/files/6-roberts-rules.pdf> Nevertheless, for the reasons stated below, the Special Magistrate does not need to resolve this dispute.

21. On July 11, 2023, Hammock Harbour submitted to the Flagler County Technical Review Committee (the "TRC") an Application for Site Development Plan Less Than 5 Acres, (the "TRC Application") to remove the existing buildings and construct the proposed marina development. On August 16, 2023, County staff met as the Technical Review Committee and provided comments in response to the site plan application. On February 28, 2024, Hammock Harbour responded to the comments.

22. On April 1, 2024, the County denied the TRC Application on the sole ground that its project was not a permitted use as a matter of right and could be considered only as a special exception. Specifically, the County's notice of the TRC's action in response to the Application is as follows:

"This application – submitted on July 11, 2023 – sought a modification of a site plan in the C-2 (General Commercial and Shopping Center) zoning district. The modification request did not include its precedent requirement for Special Exception review and approval. As you recall, in response to your request for a use determination on the subject parcel, the Planning and Development Board on August 10, 2021 determined that a boat storage facility is a permissible use (and is not otherwise prohibited) within the C-2 zoning district, but must proceed as a Special Exception use. Please note that the determination by the Board was affirmed through a correction to the approved minutes (see attachment).

No appeal of the Board's determination was filed.⁶ As such, your site plan application is denied. Please submit an application for Special Exception." (emphasis added)

⁵ The record does not reflect why the issue was raised at the Planning Board's October 10, 2023, meeting or the discussion or vote that led to the revision or correction of the original minutes.

⁶ In its initial response to the Hammock Harbour's petition, the County took the position that the Planning Board's use determination was appealable, and, therefore, because Hammock Harbour did not appeal the

22.* On April 4, 2024, Hammock Harbour filed a petition for relief, invoking the alternative dispute resolution procedures under Section 70.51, Florida Statutes. Hammock Harbour's petition for relief was timely and this matter is ripe and properly before the Special Magistrate

23. On April 19, 2024, the County filed a response to Hammock Harbour's petition.

24.* As noted above, on May 30, 2024, the parties mediated the dispute in accordance with FLUEDRA. The HCA and other interested parties participated. The mediation ended in an impasse. However, it is noteworthy that at the end of the mediation Mr. Million asked the question: "If a marina is not a "commercial recreational use" specifically permitted under LDC §3.03(17)(B)(23)(x), where does it fit in the LDC?" No one had a response although counsel for the HCA had argued that some prior marinas had been proposed within PUD's.

25. Also as noted above, on July 16, 2024, Hammock Harbour and the County held a hearing, in accordance with FLUEDRA. In addition to argument, the parties submitted record evidence. Mr. Million, manager of Hammock Harbour, testified on behalf of Hammock Harbour, and Mr. Adam Mengel, the County's Growth Management Director, testified on behalf of the County. Mr. Dennis Bayer, Esq. appeared and advocated on behalf of the HCA. Mr. Brent Spain, Esq. appeared and advocated on behalf of Ms. Kathy Viehe. Other members of the public testified or provided written comment which the Special Magistrate has considered.

26. The County contends that the TRC's action denying the site plan application does not constitute a "development order" because the Planning Board determined that the Owner's proposed use of the property is a permitted use under C-2, subject only to special exception review. Accordingly, the County argues that the requirement to go through the special exception process does not constitute a denial of the Owner's site plan sufficient to constitute a "development order" under FLUEDRA. The County also argues that the County Staff is bound by the Planning Board's determination absent further direction or determination by the County Commission.

27. Hammock Harbour contends that the Planning Board's amendment of its minutes to add the "special exception" clarification to the original approved motion after-the-fact and TRC's action denying the site plan application based on Hammock Harbour's failure to submit the application as one for a special exception constitutes a "development order" which is unreasonable and unfairly burdens its property. It seeks the right to have the TRC review its application without submitting it as a "special exception" request for the following reasons:

Board's post-hearing minute modification of its August 10, 2021, determination, that determination constituted the law of the case with respect to its ruling. However, at the July 16, 2024, hearing, the County acknowledged that the Board's decision was a legislative function that was not subject to appeal. Accordingly, it did not raise that argument in its post-hearing memorandum.

(i) Hammock Harbour's proposed use is specifically permitted as one of the "commercial recreational uses" permitted under LDC 3.03.17(B)(23)(x);

(ii) to the extent it may be argued such use is not a specifically permitted use under LDC 3.03.17(B)(23), it has been found by the Planning Board to be a specifically permitted use under LDC 3.03.17(B)(22) without application of the improper special exception requirement added to the original motion prior to the vote on August 10, 2021, and by the October 10, 2023, amendment to the August 10, 2021 minutes.

28. None of the parties or participants argued that the proposed use of the property is not a permitted use under C-2. The only issue for the magistrate is whether the site plan approval process should be done by staff (i) as a review for technical compliance with zoning requirements or (ii) as a special exception which requires a public hearing before the Planning Board and which allows for conditions to be imposed on the use.

**SPECIAL MAGISTRATE'S FINDINGS
REGARDING WHETHER HAMMOCK HARBOUR'S
SITE PLAN APPLICATION SHOULD BE REVIEWED
BY THE TRC ONLY FOR TECHNICAL COMPLIANCE WITH
THE C-2 ZONING REQUIREMENTS OR AS A SPECIAL EXCEPTION IN C-2**

**THE TRC'S DETERMINATION
CONSTITUTES A DEVELOPMENT ORDER**

1. Initially, as noted above, Section 70.51(2)(a) defines a "development order" as "any ... notice of proposed ... regional governmental agency action, which is or will have the effect of ... denying, or granting with conditions an application for a development permit...." And Section 70.51(2) (b) defines "development permit" as "any building permit, ...certification, special exception, variance or any other similar action of local government ... which has the effect of developing real property...."

2. The Special Magistrate finds that the TRC's notice which specially denies the Owner's Application for Site Plan Approval is a "development order".

**THE OWNER'S PROPOSED USE IS A MATTER OF RIGHT AND NOT
SUBJECT TO AN APPLICATION FOR A SPECIAL EXCEPTION**

**The Owner's Proposed Use Is Expressly
Permitted under LDC §3.03.17(B)(23)(x).⁷**

3. All development within unincorporated Flagler County must be done in compliance with the Flagler County Comprehensive Plan. § 163.3161(6), Florida Statutes.

⁷ The Special Magistrate understands his decision on this issue is subject to objection as being barred by the law of the case in the certiorari case described above. It is nevertheless his opinion based on his review of the applicable LDC provisions and other statutes described below.

4. Under Section 163.3202(1), Florida Statutes, each county is required to adopt land development regulations that are consistent with and implement the county's comprehensive plan within one year of its adoption.

5. The County originally adopted its Comprehensive Plan in 1991 and has amended it since.

6. The Coastal Management Element of the Flagler County Comprehensive Plan sets forth the County's policy to: "(a) locate marinas and other multi-slip docking facilities in upland areas; (b) prioritize public use marinas and other water-oriented recreation in the marine commercial areas; (c) allow public use marinas in commercial zoning districts; and (d) encourage dry dock storage facilities rather than wet slip docking facilities." Comprehensive Plan, Objective E.1.7. (emphasis added) ⁸

7. The County also established a Manatee Protection Plan ("MPP") in April 2016 (i.e., before the Owner acquired the Property). Although the MPP is not a land use ordinance, the Florida Fish and Wildlife Conservation Commission ("FWC") and the U.S. Fish and Wildlife Service ("USFWS") utilize the MPP recommendations in their review of statutes and federal regulatory permits as commenting agencies, including permits for future waterfront development projects during the federal permit process. The MPP identifies Owner's Property as property which could be expanded in the future for use as a boating facility and as a "preferred" site for a boat facility. The MPP also specifically states that the Property "is anticipated to be converted into a dry storage facility in the future [with] up to 200 dry slips." (emphasis added),

8. C-2 is a bifurcated zoning district within the LDC encompassing both shopping center and general commercial uses. The LDC lists twenty-one specific shopping center uses. LDC §3.03.17(B)(1) – (21). The LDC also lists general commercial uses which include (i) all of the shopping center uses plus (ii) twenty-three other uses. LDC §3.03.17(B)(23)(a) – (x). Finally, the LDC lists 12 "permitted special exceptions." LDC §3.03.17(C)(1) – (12).

9. Because the Coastal Management Element of the Comprehensive Plan specifically provides for the location of public use marinas in commercial zoning districts, the Owner's proposed marina must be either (i) an expressly permitted use under LDC §3.03.17(B)(22) or (23)(a) – (x) or (ii) a permitted special exception under LDC §3.03.17(C)(1) – (12).⁹

⁸ Objective E.1.7 also contains other specific requirements relating to parking areas, non-water dependent facilities, and fueling facilities.

⁹ The Property is located in the A1A Scenic Overlay District, LDC 3.06.11 which (i) prohibits certain uses of land within the A1A Scenic Corridor which would otherwise be allowed in C-2, such as outdoor storage, boat repair, and boat sale establishments, see LDC §3.03.17(C) (1) – (12) and (ii) provides additional requirements related to architectural standards, accessory structures, exterior walls, access standards, and parking standards. Marinas, including dry stack boat storage facilities, are not specifically prohibited under

10. The list of permitted uses under LDC §3.03.17(B) specifically includes “[c]ommercial recreational uses.” LDC §3.03.17(B)(23)(x).

11. As noted above, the Coastal Management Element of the Flagler County Comprehensive Plan specifically approves the location of “public use marinas and other water-oriented recreation” in “commercial zoning districts” and “encourage[s] dry dock storage facilities rather than wet slip docking facilities.” (emphasis added)

12. In addition, Section 342.07(2), Florida Statutes., which was not made part of the record for the Planning Board’s consideration, states:

“As used in this section, the term “recreational and commercial working waterfront” means a parcel or parcels of real property which provide access for water-dependent commercial activities... or provide access for the public to the navigable waters of the State. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the State or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. . . .” (emphasis added)

13. Although the term “marina,” is not specifically listed as a permitted use under LDC §3.03.17(B)(22) or (23)(a) – (x), the term “commercial recreational uses” in LDC §3.03.17(B)(23)(x) unquestionably includes “public use marinas” as authorized under the Coastal Management Element of the Comprehensive Plan.¹⁰

14. Even if there were some ambiguity in the use of the identical terms in LDC §3.03.17(B)(23)(x) and the Coastal Management Element of the Comprehensive Plan (which there isn’t), that ambiguity would be subject to resolution in favor of the Owner under *Rinker Materials Corp. v. City of North Miami*, 286 So.2d 552, 553 (Florida.

LDC §3.03.17(C) (1) – (12) within the A1A Scenic Corridor Overlay District, and neither the County nor any of the other participants argued Hammock Harbour’s site plan did not comply with the requirements of the Scenic Overlay District.

¹⁰ Hammock Harbour correctly notes that if marinas are not included somewhere in LDC §3.03.17, Flagler County has been in violation of Section 163.3202(1), Florida Statutes, since the inception of its land development code.

1973)(“Since zoning regulations are in derogation of private rights of ownership, words used in a zoning ordinance should be given their broadest meaning when there is no definition or clear intent to the contrary and the ordinance should be interpreted in favor of the property owner.”)(emphasis added)

15. Accordingly, for all of the reasons stated above, the Special Magistrate finds that the Owner’s proposed use of the Property for a commercial recreational marina with dry-stack boat storage should be an allowable specifically permitted use under LDC §3.03.17(B)(23)(x).

Alternatively, The Owner’s Proposed Use Was Properly Determined by the Planning Board To Be Expressly Permitted under LDC §3.03.17(B)(22) but Erroneously Determined to be Subject to the Special Exception Requirements of LDC §3.07.03

16. As noted above, the Owner submitted its Application for Use Determination with the Planning Board, seeking a determination that its proposed marina with dry-stack storage was a permitted use in C-2 based on LDC §3.03(17)(B)(22), which provides:

“[o]ther commercial uses of a nature similar to those listed may be permitted upon determination by the planning board that such uses are appropriate in the C-2 district. The standard industrial classification manual will be used as a reference for these determinations.”

17. Hammock Harbour’s application requested a determination that its intended marina use was (i) “of a nature similar to” the “commercial recreational use” specifically permitted under LDC §3.03(17)(B)(23)(x).

18. Because the issue was presented to the Planning Board under LDC §3.03(17)(B)(22), the Board properly considered the Standard Industrial Classification Manual (“SIC Manual”) and North American Industrial Classification System Manual (“NAICS Manual”) definitions of “marina” and “commercial warehouse” (a specifically prohibited use in C-2 under LDC §3.03.17(B)(12)), and properly concluded that the Owner’s proposed marina was “of a nature similar to” the “commercial recreational use” permitted under LDC §3.03.17(B)(23)(x) and not a “commercial warehouse.”

19. The County correctly argues that determination of the Planning Board was a legislative act regarding C-2 districts generally, and such a determination is a discretionary decision of the Planning Board, subject to a fairly debatable standard of review and not appealable under the LDC.

20. However, Hammock Harbour correctly argues that under LDC §3.03.17(B), the Planning Board is not authorized to (i) make a use determination under any of the other sub-sections of LDC §3.03.17(B) or (ii) determine whether a use may only be permitted

as a special exception under LDC §3.07.03. Under LDC §2.01.02(b)(1), the Growth Manager is charged with the initial responsibility for making those determinations.

21. The Planning Board's determination is also directly contradictory to LDC 3.08.02. That section defines a "special exception" as "[a] land use that is not similar in nature to the uses permitted in the district for which application is made." Because the Planning Board first determined that a marina with dry stack storage "was similar in nature" to the "commercial recreational use" permitted under LDC §3.03.17(B)(23)(x), it was precluded from permitting that use only as a "special exception."¹¹

22. Accordingly, the Planning Board's decision that a marina with dry-stack storage is a commercial use "of a nature similar to those listed" meant that as a matter of law marinas are expressly permitted uses in C-2 and cannot be subject to the special exception requirements of LDC §3.07.03. Thus, the ultimate use determination of the Planning Board, including the disputed clarification, that a marina with dry stack storage is a permitted use in C-2 but only as a special exception is clearly erroneous and not fairly debatable.

23. For all of the reasons stated above, the Special Magistrate finds that the Owner's proposed use of the Property for a commercial recreational marina with dry-stack boat storage should be allowed as a specifically permitted use under LDC §3.03.17(B)(22) without having to meet the requirements of a special exception. Accordingly, the Special Magistrate makes the alternative finding that Hammock Harbour should be entitled to have its Application for Site Plan Approval reviewed by the TRC only for compliance with the requirements of LDC §3.03.17(D) – (Fa) and the requirements of the A1A Coastal Scenic Overlay.

Matters Raised by Interested Parties

24. One of the immediately adjacent neighbors expressed concern at the July 16, 2024, hearing about the noise that would be caused by the Owner's use of a heavy-duty forklift and the general noise that would be admitted by the patrons of the marina and restaurant proposed to be built on the Property.¹²

¹¹ Despite this finding, the Assistant County Attorney correctly argues that County staff did not have authority under the LDC to contravene the use determination made by the Planning Board without further direction or determination by the County Commission. Accordingly, the TRC was bound by the Planning Board's erroneous determination to make the decision that it did which can only be changed by the Planning Board itself or the County Commission.

¹² The special Magistrate notes that other expressly permitted uses of the Property under C-2 include bars, bowling alleys, day care centers, night clubs, and restaurants, all of which would subject the nearby residents to an above average amount of noise if the property were not subject to the covenant that restricts its use to a "boatyard and related uses."

25. The Special Magistrate has also reviewed the HCA's historical summary and analysis of the C-2 zoning provisions. To the extent they are inconsistent with the Special Magistrate's findings in this Report and Recommendation, they are rejected.

SPECIAL MAGISTRATE'S DETERMINATION AND RECOMMENDATION

For all of the foregoing reasons, the Special Magistrate determines that the Planning Department's determination that marinas, including marinas with dry stack storage, are a permitted use under LDC §3.03(17)(B)(22) but only as special exceptions and the TRC's mandatory application of the special exception requirement are unreasonable and unfairly burden the Owner's use of the Property. See, *Ocean Concrete, Inc. v. Indian River County, Board of County Commissioners*, 241 So.3d 181 (Florida. 4th DCA 2018) (inordinate burden prong satisfied under Bert Harris Act where development was a permitted use under zoning code).¹³ Accordingly, the Special Magistrate recommends the following alternatives to avoid future litigation over the issues considered in this proceeding:

1. After notice and hearing, the Planning Board sua sponte reconsider its determination on the Owner's Application for Use Determination and determine that a marina with dry stack storage is a specifically permitted use under the Coastal Management Element of the Flagler County Comprehensive Plan and LDC §3.03.17(B)(22) that does not require an owner to submit an application for a special exception to obtain site plan approval by the TRC, and the TRC forthwith thereafter consider the Owner's TRC Application.

2. To reduce the noise from the marina and/or restaurant operation for the benefit of the neighbors to the north and south, the Owner agree to revise its site plan to:

- a. specifically provide for the use of only an electric marine forklift or forklifts in connection with the marina/dry stack storage operation, see e.g., <https://wigginslift.com/>; and
- b. increase the height of the landscape "buffer" between the property and the neighbors to the north and south from 6' to 8'.

3. Nothing in this report and recommendation is intended to limit or restrict any members of the public from commenting on, objecting to, or participating in the TRC's review of the Owner's site plan to the extent permitted by law.¹⁴

¹³ The burden imposed here is particularly significant given that, at the prior request of the County, the Property is subject to a restrictive covenant permitting only "boatyard and related uses". As such, Hammock Harbour reasonably argues that the County has effectively restricted the use of the Property while then denying permission to engage in that very use.

¹⁴ While this recommendation does not address the issues of estoppel or detrimental reliance, the Special Magistrate notes that the conclusion reached herein is generally consistent with the positions previously

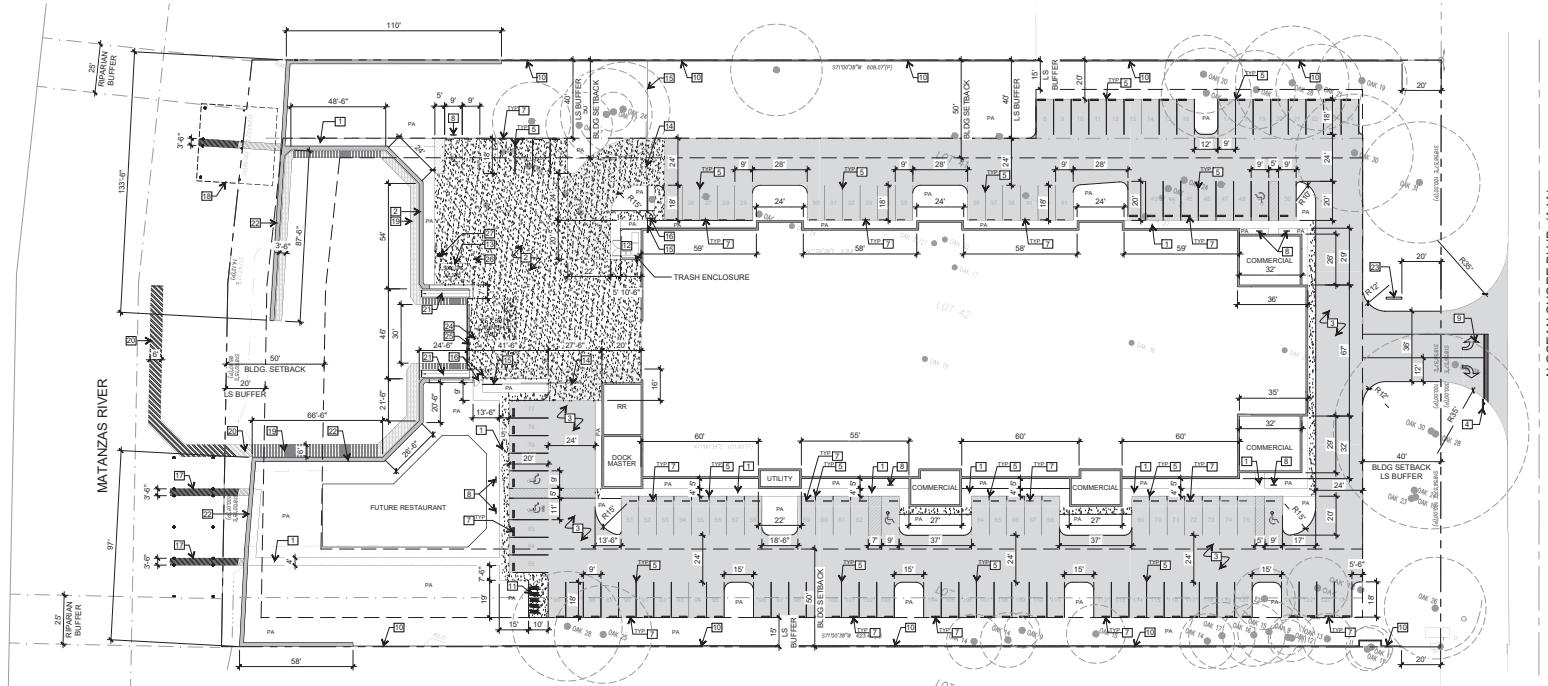
Dated: October 29, 2024



Terrance E. Schmidt
Special Magistrate

cc: State of Florida
Department of Legal Affairs
The Capitol PL-01
Tallahassee, Florida 32399-1050

taken by the Planning Director, the Planning and Zoning Department Staff, the Planning and Development Board, the Flagler County Board of County Commissioners as well as guidance provided by the Assistant County Attorney.



PARKING DATA

DESCRIPTION	RATIO	QUANTITY	UNIT	SPECIALTY	SPACES
COMMERCIAL	1/200 SF	200	SF	200	14
FUTURE RESTAURANT	1/100 SF OF SEATING	200	SF	50	45
MARINA	1 EMPLOYEE PER SHIFT	7	EMPLOYEES	1	7
	1/4 BOATS	204	BOATS	4	51
	1 EMPLOYEE PER SHIFT	4	EMPLOYEES	1	4
		REQUIRED SPACES			121
		TOTAL SPACES PROVIDED			134
		NON-PARKING SPACES			4
		STANDARD SPACES			5
		VAN SPACES			1

SITE DATA TABLE

PARCEL NUMBER(S)	40-10-31-310-0000-0400
LOT ADDRESS	5658 NORTH OCEANSHORE BLVD
FEEL PANEL NUMBER	1110000310
FLOOD ZONE	ZONE X
ZONING	C-2 GENERAL COMMERCIAL & SHOPPING CENTER DISTRICT
DIMENSIONAL STANDARDS 3.31.17	
BUILDING SETBACKS	
FRONT (COVER TYP KEEP)	40'
REAR	50' ADJACENT TO NON-RES ZONING & USES
SIDE	50' ADJACENT TO NON-RES USES
LANDSCAPE PERIMETER REQUIREMENTS	
FRONT	40'
REAR	25' ADJACENT TO NON-RES ZONING OR USES
SIDE	15' NON-RES USE ADJ TO RES; USE OR ZONING
SIGNAGE	
MONUMENT SIGN 7.53.02	32 SF MAX. 6' MAX HEIGHT
SITE COVERAGE	
LOT SIZE - PLATE MAX	185,700 SF (4.28 ACRES)
PROPOSED DRYSTACK BUILDING	42,837 SF
COMMERCIAL	2,900 SF
FUTURE RESTAURANT	3,425 SF
PROPOSED ASPHALT PARKING	48,517 SF
PROPOSED CONCRETE PARKING	11,588 SF
PROPOSED CONCRETE WALKS	4,300 SF
TOTAL IMPERVIOUS	(11,724 SF)
TOTAL PERVIOUS	73,976 SF
% BUILDING COVERAGE	40%
TOTAL PERVIOUS %	60%
TOTAL PERVIOUS (35% MIN)	46%
% BUILDING COVERAGE	23%
TOTAL FLOOR AREA	46,817 SF
FLOOR AREA RATIO (FAR)	25%

CONSTRUCTION NOTATION LEGEND

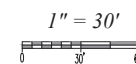
- CONCRETE SIDEWALK
- CONCRETE PAVING
- ASPHALT PAVING
- STOP SIGN
- PARKING LOT STRIPPING - PER FOOT INDEX 711 401
- TURN LANE STRIPING
- PRECAST CONCRETE WHEEL STOP
- ACCESSIBLE PARKING SIGN
- TURN LANE STRIPING
- MASONRY PERIMETER WALL
- BIKE RACKS
- TRASH ENCLOSURE
- 5,000 GALLON FUEL TANK (UL-2085)
- SLIDING VEHICULAR GATE
- 5' FENCE
- PEDESTRIAN GATE
- LIFT SLIP
- COVERED LIFT SLIP
- FLOATING DOCK
- WAVE ATTENUATING DOCK
- PEDESTRIAN GANGWAY
- SEAWALL
- ENTRY MONUMENT SIGN
- BOAT LAUNCH PAD
- FORK/LIFT WHEEL STOP
- SAFETY BOLLARDS
- WASTE PUMP-OUT STATION

5.01.04 FLAGLER COUNTY LANDSCAPE DEVELOPMENT STANDARDS (A1A SCENIC CORRIDOR)

5.01.04 (1) - PERVIOUS LANDSCAPE AREA	TOTAL DEVELOPED AREA	
5.01.04 (5)(a) - PERIMETER REQUIREMENTS		
1a. FRONT PERIMETER LANDSCAPE AREAS (A1A SCENIC CORRIDOR)		
40' BUFFER FOR PROPERTIES WITH A LOT DEPTH OF 100' OR MORE	PROVIDED	
2a. SIDE AND PERIMETER LANDSCAPE AREAS (A1A SCENIC CORRIDOR)		
15' SIDE LANDSCAPE BUFFER FOR NON RESIDENTIAL USE WHEN ADJACENT TO RESIDENTIAL USES OR ZONING	PROVIDED	
20' REAR LANDSCAPE BUFFER FOR NON RESIDENTIAL USE WHEN ADJACENT TO RESIDENTIAL USES OR ZONING	PROVIDED	
NO BUFFER REQUIRED FOR NONRESIDENTIAL USE ADJACENT TO NONRESIDENTIAL USES OR ZONING	PROVIDED	
5.01.04 (5)(b) 1a. - TREE CANOPY REQUIREMENTS (ONE PER 25 LF)		
176 LF FRONT DIVIDED BY	25 FT EQUALS	7 PERIMETER CANOPY TREES REQUIRED
306 LF NORTH SIDE DIVIDED BY	25 FT EQUALS	12 PERIMETER CANOPY TREES REQUIRED
223 LF SOUTH SIDE DIVIDED BY	25 FT EQUALS	9 PERIMETER CANOPY TREES REQUIRED
200 LF REAR DIVIDED BY	25 FT EQUALS	8 PERIMETER CANOPY TREES REQUIRED
5.01.04 (5)(b) 1c. - UNDERSTORY TREE REQUIREMENTS (EIGHT PER 100 LF OF FRONT PERIMETER)		
276 LF DIVIDED BY 100 = 2.76	2.76 MULTIPLIED BY 8 EQUALS	22 UNDERSTORY TREES REQUIRED
23	PROVIDED	
5.01.04 (5)(C) - VISUAL SCREEN IN PERIMETER AREA		
1762 LF CONTINUOUS SCREEN		1762 LF LANDSCAPE SCREEN REQUIRED
1762	PROVIDED	
5.01.04 (5)(E) - INTERIOR PLANTING AREA		
(1A) - ONE 400 SF PLANTING AREA FOR EVERY 4,000 SF OF INTERIOR VEHICULAR USE AREA		
OFF-STREET PARKING VIA AREA		
57,969 VUA DIVIDED BY	4000 SF EQUALS	15 PLANTER AREA REQUIRED
18	PROVIDED	
VUA PARKING AREA SIZE REQUIREMENTS:		
CONTAIN AT LEAST ONE 4" CALIBER INDEX TREE PER VUA AREA	15	SHADE TREES REQUIRED
VUA ISLAND AREAS (400 SF - 15 FT MIN. LENGTH)	6,000	SF ISLANDS REQUIRED
7,263	SF PROVIDED	

HATCH LEGEND

ASPHALT PAVEMENT	
CONCRETE PAVEMENT	
CONCRETE	
DOCK	



SDG SEAWAY DESIGN GROUP
 www.seawayfla.com
 800 Belle Terre Place
 Suite 200-152
 Palm Coast Florida 32164
 386.247.0833

HAMMOCK HARBOUR
 5658 N. OCEAN SHORE BLVD
 PALM COAST FL 32137

REVISIONS

REVISION	DATE
1st COUNTY SUBMITTAL	7/05/23
2nd COUNTY SUBMITTAL	8/29/23

SCALE 1"=30'

DRAWN	MY
DESIGNED	TN
CHECKED	TN
DATE	06/27/23
JOB NO.	22024
JOB TYPE	MARINA

Sunshine 811

Call 811 or visit sunshine811.com two full business days before digging to have buried facilities located and marked.
 Check positive response codes before you dig!



SHEET TITLE
 SITE PLAN

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 PLOT LOG: 06/01/23, 06/01/23, 07/05/23, 07/05/23, 08/17/23, 08/29/23