

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

PRESERVE FLAGLER BEACH AND  
BULOW CREEK, INC., a Florida not  
for profit corporation, and STEPHEN  
NOBLE,

Petitioners,

Case No. 2020-CA-000565

v.

FLAGLER COUNTY, FLORIDA, a  
political subdivision of the State of  
Florida, and PALM COAST  
INTRACOASTAL, LLC, a Florida  
limited liability company,

Respondents.

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**ORDER DENYING AMENDED PETITION FOR WRIT OF CERTIORARI**

**THIS CAUSE** came before the Court for oral arguments, held via Zoom videoconferencing, on August 31, 2021, upon consideration of petitioners' Amended Petition for Writ of Certiorari. Before the oral arguments, the Court reviewed the Amended Petition, respondents' written responses to the Amended Petition, and petitioners' combined reply. The Court has also reviewed the case law cited to and relied upon by the parties, as well as the record and documents submitted via the filed appendices. Having reviewed

the same, and being otherwise advised as to the premises of this cause, the Court finds:

1. Petitioners challenge the decisions of the Flagler County Board of County Commissioners (“Board”) reached at the November 16, 2020 quasi-judicial Board hearing, which approved respondent Palm Coast Intracoastal, LLC’s Application for Review, and its Application for Preliminary Plat.

2. Petitioners argue: a) the Board failed to accord procedural due process to them at the quasi-judicial Board hearings held on September 21, 2020 and November 16, 2020 which concerned the applications; b) the Board failed to observe the essential requirements of the law in approving the applications on November 16, 2020; and c) the Board’s November 16, 2020 decisions to approve the applications were not supported by competent substantial evidence.

3. Respondents each filed responses in opposition to petitioners’ arguments as presented in the Amended Petition, and in their responses asserted petitioners lack standing to seek certiorari review of the Board’s November 16, 2020 decisions to approve the applications. Petitioners filed a combined reply which addressed the responses, and addressed the standing arguments asserted by respondents.

4. On August 27, 2021, respondent Flagler County filed a Motion to Strike Petitioners' Supplemental Appendix. On August 28, 2021, petitioners filed a Response in Opposition to the motion.

### **The Court's Ruling**

5. Upon first-tier certiorari review, and as explained on the record of the August 31, 2021 oral arguments, the Court finds:

- a. the Board provided the Petitioners procedural due process at the quasi-judicial Board hearings held on September 21, 2020 and November 16, 2020;
- b. the Board observed the essential requirements of the law in approving the applications on November 16, 2020; and
- c. the Board's November 16, 2020 decisions to approve the applications were supported by competent substantial evidence.

6. The Court has further determined, for the reasons explained on the record of the August 31, 2021 oral arguments, that the petitioners lack standing to seek certiorari review to challenge the Board's decisions. However, as the Court stated on the record, this finding did not affect the Court's determination of whether petitioners presented a sufficient basis for

certiorari relief, and petitioners have not carried their burden to show entitlement to certiorari relief irrespective of standing.

**Therefore, the Court ORDERS AND ADJUDGES:**

**A. Petitioners' Amended Petition for Writ of Certiorari is DENIED.**

**B. The County's Motion to Strike is DENIED AS MOOT.**

DONE AND ORDERED in Chambers in Bunnell, Flagler County, Florida, on this \_\_\_\_ day of September, 2021.

9/15/2021 10:49 AM 2020 CA  
 000565  


e-Signed 9/15/2021 10:49 AM 2020 CA 000565

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TERENCE R. PERKINS  
CIRCUIT COURT JUDGE

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