FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 4/17/2019

#3174- FLUM O- 10AC - PALM COAST INTRACOASTAL LLC

APPLICANT: ROBERT MERRELL II ESQ OWNER: PALM COAST INTRACOASTAL LLC

Distribution date: Monday, April 15, 2019

Project #: 2019020027

Application #: 3174

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: DEVELOPMENT ENGINEERING

No Comments

REVIEWING DEPARTMENT: COUNTY ATTORNEY

Comments Pending

REVIEWING DEPARTMENT: ENVIRONMENTAL PLANNER

No Comments

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No Comments

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

No Comments

REVIEWING DEPARTMENT: FIRE INSPECTOR

No Comments

REVIEWING DEPARTMENT: SCHOOL BOARD

Review of the proposed FLUM and PUD amendment lends to significant change in that Flagler County Schools would be directly impacted. The proposed amendment would increase our schools by over 533 students. This increase causes over capacity of our school and would likely need a mitigation agreement. The current impact fees do not generate enough revenue to support the students that would generated by this development.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The Development of Regional Impact (DRI) application submittal and review process has been made optional through statutory changes (see Sec. 380.06(12), F.S.), with projects able to opt for the State Coordinated Review Process for Comprehensive Plan amendments instead

(see Sec. 163.3184(4), F.S.). County staff requests that the applicant respond to why the State Coordinated Review Process - instead of the DRI process - will result in a better end result for Flagler County.

- 2. Under the 'Water' heading of the County's Future Land Use amendment application (and its Attachment "J"), the County requested the submittal of the "completed SJRWMD Consumptive Use Worksheet and supporting information concerning growth projection or committee [should be 'committed'] capacity." Aside from a Demand Calculations worksheet for combined Water, Sewer, and Solid Waste for the project through anticipated build-out in 2040, and the City of Flagler Beach's letter dated January 8, 2019 regarding future water and wastewater utility availability from the City (with a Preliminary Absorption Schedule bearing a 9/13/2018 revision date attached), no other submittal was provided. Please demonstrate through the submittal -inclusive of the City's Consumptive Use Worksheets, facility capacity projections, Water Supply Plan, and similar technical documents that the required water supply infrastructure improvements will be in place at the time that the final plat and/or site plan approval will be sought for each phase and sub-phase of the project. Please also note that there appears to be discrepancies between the Demand Calculations worksheet and the Preliminary Absorption Schedule; while these do not appear to be significant, the timing of the phasing of the absorption does not appear to be consistent.
- 3. Under the 'Sewer' heading of the County's Future Land Use amendment application (and its Attachment "J"), the County requested the submittal of the "completed FDEP operating information for previous 12 months." Aside from a Demand Calculations worksheet for combined Water, Sewer, and Solid Waste for the project through anticipated build-out in 2040, and the City of Flagler Beach's letter dated January 8, 2019 regarding future water and wastewater utility availability from the City (with a Preliminary Absorption Schedule bearing a 9/13/2018 revision date attached), no other submittal was provided. Please demonstrate through the submittal inclusive of the City's FDEP operating reports, facility capacity projections, and similar technical documents that the required sanitary sewer collection system and treatment system infrastructure improvements will be in place at the time that the final plat and/or site plan approval will be sought for each phase and sub-phase of the project. Please also note that there appears to be discrepancies between the Demand Calculations worksheet and the Preliminary Absorption Schedule; while these do not appear to be significant, the timing of the phasing of the absorption does not appear to be consistent.
- 4. For reference to the applicant, the Interlocal Agreement Water and Wastewater Service Area, John Anderson Corridor between Flagler County and the City of Flagler Beach dated May 16, 2016 (and recorded on May 19, 2016 at Official Records Book 2129, Page 1549, Public Records of Flagler County, Florida) does not create an obligation on the part of the City to provide water and wastewater service to this project or any project within the County's John Anderson Service Area. The entirety of the subject parcel is located within the boundaries of the County's Jon Anderson Service Area.
- 5. For the 'Solid Waste' heading of the County's Future Land Use amendment application (and its Attachment "K"), previous Future Land Use amendment applicants have verified through Volusia County that sufficient capacity is available within Volusia's Tomoka landfill (or in future Class I landfill facilities programmed for development and/or expansion) to accommodate the project's impacts through its anticipated buildout. Please refer to the County's Interlocal Agreement with Volusia County effective April 1, 1991 (and recorded on November 26, 1990 at Official Records Book 441, Page 939, Public Records of Flagler County, Florida) and the

subsequent Agreement effective April 1, 1992 (and recorded on March 24, 1992 and recorded at Official Records Book 463, Page 1735, Public Records of Flagler County, Florida) for additional information.

- 6. The parcel number listed at Section 2.4 and Section 3.6 in the applicant's submittal is incorrect: the parcel number should be listed as 13-12-31-0000-01010-0000.
- 7. The draft text for the Comprehensive Plan Text Amendment listed at Section 3.6 in the applicant's submittal lists "a small portion designated as Mixed Use High Intensity"; the area of the Mixed Use Low Intensity and Mixed Use High Intensity will need to be included here in terms of an approximate acre (+/-) measurement, along with its graphic depiction through the accompanying map prepared by the County to be attached to the Future Land Use amendment ordinance.
- 8. The draft text for the Comprehensive Plan Text Amendment listed at Section 3.6 in the applicant's submittal appears to potentially add up to 250 additional residential units for "agetargeted dwellings" through the draft text: "[a]n additional 250 of the Residential Units outlined above". It appears that the applicant's intent is to limit assisted living facility units to no more than 250 units and "age-targeted dwellings" to no more than 250 units, both to be taken from the total 3,966 units the sum of the separate maximum 541 single family residential and maximum 3,425 multi-family residential units instead of adding to this total; however, the draft text should be rephrased to eliminate any future ambiguity between the applicant's intent and the County's understanding of the request so that an "additional 250" units are not subsequently claimed.
- 9. The draft text for the Comprehensive Plan Text Amendment listed at Section 3.6 in the applicant's submittal - seeks the recognition that the previously conveyed 1,200-acre Public Lands "D" [listed in multiple parcels: Parcel #10-12-31-0000-00010-0011, Parcel #10-12-31-0000-00020-0011, and Parcel #39-12-31-0000-01010-0020] "be counted towards the overall open space calculation for the Project"; however, the Special Warranty Deed dated January 2, 2008 from Hammock Beach River Club, LLC to the Flagler County Board of County Commissioners (and recorded on January 4, 2008 at Official Records Book 1636, Page 1694, Public Records of Flagler County, Florida) only included reservations to the Grantor, their successors and assigns, that were linked to mitigation purposes "as may be required to comply with any state, federal, county or local government environmental permits pertaining to the [PUD] Property". At this time, County staff is not in favor of this application's approach to count this parcel's area towards this project's open space requirement since the previously-approved PUD (approved through Ordinance No. 2005-22 and recorded on May 3, 2006 at Official Records Book 1429, Page 19, Public Records of Flagler County, Florida) additionally allocated the non-upland areas of Public Land "D" for use by the developer for wetland mitigation purposes: "Any portion of the Conservation Area within Public Land "D" may be used in whole or in part as mitigation for the Project, as required by the St. Johns River Water management District ("SJRWMD") and/or U.S. Army Corps of Engineers ("USACOE") permits and Flagler County pursuant to a wetlands variance or similarly required approvals." The previous reservations by the former parcel owner and former developer - through the deed conveying the parcel and the previously-approved PUD - did not specifically reserve this right of successors and assignees to additionally benefit from counting this land area towards any minimum required open space. County staff also notes the applicant's response in the applicant's submittal at subsection 4.2(VI) regarding open space: the response appears to be inconsistent to the applicant's intent not to provide additional open space.

- 10. The applicant's narrative statements listed at Section 4 in the applicant's submittal as a whole are overly optimistic towards the County's development. As listed in the County's 2010-2035 Comprehensive Plan's Future Land Use Element (adopted July 6, 2011), the subject parcel is located within 'Coastal Area 3 (Bulow Creek)'; no significant development was anticipated within this area, as is described at Objective A.2.5 and its related policies. The County acknowledges that the bulk of the policies listed here in support of and implementing Objective A.2.5 have not been met since the included deadlines have elapsed, with the update to the County's Land Development Code still underway, the transportation analysis (Policy A.2.5.3) not completed and the County's management plan for Public Lands "D" (Policy A.2.5.4) also incomplete. Other Comprehensive Plan Goals, Objectives, and Policies for example, Policy A.1.5.1, requiring that "[h]igher densities and intensities of development shall be located within areas where public facilities are available" have not been specifically addressed by the applicant. The applicant's review should be expanded to be inclusive of all relevant Goals, Objectives, and Policies; County Planning staff can assist the applicant in the identification and review of these items.
- 11. The reference to Intergovernmental Coordination Element Goal I'D listed at Section 4.1 in the applicant's submittal is incorrect; this should be Goal I.1.
- 12. Specific responses regarding 'Consistency with the Urban Sprawl Rule' listed at Section 4.2 in the applicant's submittal are also overly optimistic, citing for example the applicant's response for subsection (II) that (in relevant part): "public infrastructure and services are in place, and utility service is provided through the existing Utility Service Agreement". County staff also notes the present use of the bulk of the subject parcel acknowledging the approved PUD for silviculture uses (see applicant's response at subsection 4.2(V)). Additionally, the applicant's response for subsection 4.2(VIII) appears to miss the intended mark of the antisprawl criterion: the applicant is being asked to demonstrate that the proposed amendment either remediates a previously-approved sprawl condition or provides an innovative development pattern. The response cites the previous development's "financial difficulties" seemingly relying on the increase in density through the requested amendment to resolve the previous applicant's difficulties.
- 13. As an amendment to the Future Land Use Element's map and text, County staff will evaluate the applicant's requested amendment to the standards of Sec. 163.3177, F.S., specifically using the listing of prerequisite requirements listed at subsection 163.3177(6)(a)2. and subsection 163.3177(6)(a)8., acknowledging the need to also evaluate subsections 163.3177(6)(a)4., 5., and 7. and the applicability of these requirements to the requested land use amendment. While the applicant has evaluated the amendment's consistency with subsection 163.3177(6)(a)9.b., the analysis of subsection 163.3177(6)(a)9.a. [the urban sprawl indicators, as to the absence of the indicators through the proposed amendment] will also be completed by County staff as part of its review: responses to these submitted by the applicant would be helpful to the County.
- 14. The trip generation analysis Technical Memorandum dated February 26, 2019 appears to be technically correct, but omits the non-residential development potential: 230,694 gross square feet of retail/office from the 2005 PUD (likely in the 33+/- acres of existing Mixed Use High Intensity) to 510,000 square feet (up to 150,000 square feet of office and up to 360,000 square feet of retail/marina) in the proposed amendment. Page 6 of the Technical Memorandum stated that: "[t]he existing non-residential entitlements remain unchanged."

15. With regards to the trip generation analysis Technical Memorandum, the County reserves the right to seek peer review of the study's conclusions, particularly those that acknowledge that the project will generate an increase of 7,993 average daily trips at Phase 1 (2025) and an increase of 28,414 average daily trips at build-out, but not requiring any improvements or fair-share contributions (through this Future Land Use amendment) by the developer to resolve any deficiencies.

CITY OF FLAGLER BEACH

Comments Pending

CITY OF PALM COAST:

Review for Flagler County FLUM and PUD 825 acres; original PUD was 1,999 acres Environmental Review:

Staff has reviewed the 2005 PUD and cross-referenced the performance standards associated with proposed amendment. The following sections inventory staff feedback.

Proposed Section 7.1 General Development Standards

1. A footnote was added to the residential uses that reflected that assisted living facilities is a permissible use. The project area includes Special Flood Hazard Areas pursuant to the effective Flood Insurance Rate Map Panels. ALFs are considered critical facilities and shall be directed away from SFHA. Recommend that Section 7.3 prohibits critical facilities including ALF uses in the SFHA.

Proposed Section 7.3 Finished Floor Elevations

- 2. Approximately ½ of the project area is within the Special Flood Hazard Area. Pursuant to the NFIP and CRS program, development should be directed away from the SFHA and impacts/encroachments shall be minimized to the greatest extent practicable. To ensure that the development doesn't increase risk of flood, staff recommends that a CLOMR-F and ultimately a LOMR-F be required for the entire project area to ensure that insurable structures, all critical facilities and utility facilities are outside the SFHA before final plat. Encroachments to the SFHA shall be minimized to the greatest extent practicable. Proposed Amendment Section 8.1 Open Space
- 3. According to Habitat Map FLUCFCS codes, mixed wetland hardwoods (617) and mixed upland mixed coniferous/hardwood (434) vegetative communities exist within the project limits. Staff recommends that a tree survey is conducted to identify index trees and associated hardwood canopies to ensure that uses compliment the natural landscape and to encourage clustering and open space protection of hardwood canopies.

4. Also, suitable soil types exist on the east side of John Anderson that can support a multitude of protected species, including but not limited to gopher tortoise, eastern indigo snake, and other scrub community dependent species. Note Flagler County Comp. Plan Policy F.1.10.2 has provisions to protect habitat and viable populations of protected species. A Preliminary Listed Species Assessment should be produced and reviewed prior to final consideration of the Proposed Amendment.

Proposed Amendment Section 8.2 Wetlands

- 5. City staff recommends that the original Section 7.2 Bulow Creek & Graham Swamp Buffer requirements of the 2005 PUD is transferred to the new amendment.
- 6. Flagler County LDC states that areas of special concern (Bulow Creek and Graham Swam) shall have a minimum buffer of 75ft 6.02.09.C.2 and 6.02.09.D.
- 7. Staff recommends that an Avoidance and Minimization Study for the wetlands should be conducted, as well as No Net Loss in Wetland Function.

Proposed Amendment Section 8.4 Boat Docks and Boathouses

- 8. Include a reference to the Manatee Protection Plan in the provisions.
- 9. Are any of the referenced facilities open to the public? The 2005 PUD noted a boat ramp accessible by the public.
- 10. Reference to "Marina facilities" was noted, recommend including a requirement to adhere to the "Clean Marina" standards and certification.
- 11. Along the Intracoastal Waterway and contiguous with single-family residential properties, a common area/conservation easement is noted. The proposed alignment of single-family lots do not have riparian rights and further the "conservation easement" would inhibit access for accessory dock structures.

Remove bullet: "Subject to Developer approval, docks for single-family homes will be permitted on an individual basis for lots contiguous to the Intracoastal Waterway."

12. Reference to Bulow Creek access should incorporate a standard that community dock location shall consider the extent of wetland impacts associated with proposed improvements. Cross- reference Section 8.2 regarding activities permitted within wetlands areas and associated buffers.

Proposed Amendment Section 6.1 Stormwater

13. Bulow Creek, an Aquatic Preserve extends into the project limits. Higher standards should be integrated into the proposed PUD to ensure that water quality and adequate buffering is sufficiently addressed.

As noted by the Flagler County LDC, Bulow Creek and Graham Swamp are listed as Areas of Special Concern and reflected as such in the amendment. In summary, a 75-foot minimum upland buffer should be required. Further note that Bulow Creek is a FEMA regulatory

floodway.

Proposed Amendment Section 6.2 Irrigation

14. If reclaimed water is not the primary irrigation, Florida Water Star standards for the project area shall be applied to all common areas and amenities. (Flagler County Comp. Plan Policy F.1.6.6-4)

Cultural and Historical Resources

- 15. According to the Division of Historical Resources Master Site File, numerous Flagler Sites have been identified within the project site. Includes, but not limited to the following. Has DHR provided any input on these references? (Flagler County Comp. Plan Policy F.1.13.4)
- " FL00216 Shell Midden
- " FL00221 Shell Midden
- " FL00231 Scattered Ceramic
- " FL00217 Scattered Ceramic
- " FL00220 Building Remains
- " FL00218 Scattered Ceramic

Hazardous Materials

16. According to the Division of Historical Resources Master Site File, FL00225 Dip Vat is located on the east side of John Anderson. Is there any record of the site being addressed/closed? If no record exists, staff recommends that remediation is addressed as part of the amendment.

Comments on proposed FLUM amendment.

- 1. No analysis on the impact of proposed FLUM amendment on the following existing public facilities/infrastructure is provided, if necessary, analysis of the public improvements necessary to accommodate the proposed intensification of development should be provided.
- " Water and Sewer,
- " Parks facilities,
- " Educational facilities,
- " Solid Waste,
- " Drainage facilities
- 2. No analysis on the appropriateness of the proposed FLUM amendment's impacts on the surrounding existing land uses is provided.
- 3. No analysis on the impacts of the proposed land use intensification and its impacts within the Coastal High Hazard Area (CHHA) is provided.



Community Development Department Planning Division

160 Lake Avenue Palm Coast, FL 32164 386-986-3736

April 15, 2019

Adam Mengel, AICP, LEED AP BD+ Planning Director 1769 E. Moody Blvd. Bldg. 2 Bunnell, FL 32110

RE: The Gardens-Future Land Use Map Amendment & Planned Unit Development Applications

Dear Mr. Mengel:

Thank you for allowing City of Palm Coast staff to review the proposed project applications above. Based on our review, we have compiled the following comments, as well as requests for additional information which are necessary for a more in-depth consideration and analysis of the impacts of the proposed amendments.

If you have any questions, please do not hesitate to contact Jose Papa, AICP, at 986-2469.

Sincerely,

Ray Tyner, Planning Manager

c. Beau Falgout, Assistant City Manager Stephen Flanagan, Director, Community Development Richard Adams, Director, Utilities Department



From: <u>Jessica Gow</u>

To: Adam Mengel, AICP, LEED AP BD+C

Cc: <u>Debi LaCroix</u>; <u>Ariel Flowers</u>

Subject: The Gardens - TRC Meeting Postponement Request

Date: Friday, June 14, 2019 5:12:56 PM

Adam,

We would like to request that our TRC meeting be continued from this upcoming Wednesday to the July 17th planned TRC meeting. We believe that the additional time before the meeting will allow us to work through the County's substantive comments and allow for a more productive use of County Staff's time during the meeting. I will follow up with a formal letter request regarding the continuance on Monday.

Thank you,



Jessica Gow
Attorney at Law
Cobb Cole
149 South Ridgewood Avenue
Suite 700
Daytona Beach, FL 32114
(D) 386-254-6357| (F) 386-254-6368
Website|Bio|vCard

Scott W. Cichon Robert A. Merrell III John P. Ferguson Mark A. Watts Heather Bond Vargas Andrea M. Kurak Michael J. Woods Raymond L. Schumann Kathleen L. Crotty Michael O. Sznapstajler Matthew S. Welch Robert E. Doan Douglas J. Collins Holly J. Woersching Sarah Zimmerman Fogle Taylor M. Westfall Jessica L. Gow



Daytona Beach • DeLand

149 South Ridgewood Avenue, Suite 700
Daytona Beach, Florida 32114
(386) 255-8171
CobbCole.com

May 21, 2019

OF COUNSEL Kelly Parsons Kwiatek Harold C. Hubka Larry D. Marsh Maja Sander Bowler Peter R. J. Thompson* *Practice limited to federal immigration matters

RETIREDThomas S. Hart

William M. Cobb (1881-1939) Thomas T. Cobb (1916-2004) W. Warren Cole, Jr. (1926-2008)

VIA EMAIL

Technical Review Committee Attn: Adam Mengel 1769 E Moody Blvd Building # 2 Bunnell, FL 32110

Re: TECHNICAL REVIEW COMMITTEE COMMENTS DATED 4-17-2019 -

#3174- FLUM O- 10AC - PALM COAST INTRACOASTAL LLC

Dear Adam:

It is our firm's pleasure to represent Palm Coast Intracoastal, LLC in connection with their application for Planned Development-General Rezoning of property located in Flagler County, Florida.

Attached are the following in connection with the above referenced project:

- 1. Revised Comprehensive Plan Amendment Packet.
- 2. One (1) copy of the Updated Absorption Schedule.
- 3. One (1) copy of the Water and Sewer Demand Calculations.
- 4. Letter from Flagler Beach regarding utility capacity.
- 5. Revised Proposed FLU Map Exhibit.

We are in receipt of the City Technical Review Team comments dated April 17, 2019. We offer the following responses:

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

No comments.

RESPONSE: Thank you.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

{046146-001 : RMERR/JLGOW : 02385565.DOCX; 1}

Comments pending.

RESPONSE: Noted. Thank you.

REVIEWING DEPARTMENT: ENVIRONMENTAL PLANNER

No comments.

RESPONSE: Thank you.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No comments.

RESPONSE: Thank you.

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

No comments.

RESPONSE: Thank you.

REVIEWING DEPARTMENT: FIRE INSPECTOR

No comments.

RESPONSE: Thank you.

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Review of the proposed FLUM and PUD amendment lends to significant change in that Flagler County Schools would be directly impacted. The proposed amendment would increase our schools by over 533 students. This increase causes over capacity of our school and would likely need a mitigation agreement. The current impact fees do not generate enough revenue to support the students that would generated by this development.

RESPONSE: Applicant has met with the School Board regarding this matter.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The Development of Regional Impact (DRI) application submittal and review process has been made optional through statutory changes (see Sec. 380.06(12), F.S.), with projects able to opt for the State Coordinated Review Process for Comprehensive Plan amendments instead Flagler County TRC Comments (see Sec. 163.3184(4), F.S.). County staff requests that the applicant respond to why the State Coordinated

Technical Review Commitee April 24, 2019 Page 3

Review Process - instead of the DRI process - will result in a better end result for Flagler County.

RESPONSE: Florida Statute 380.06(12)(a) states that proposed developments which would fall under the DRI review process must go through state coordinated review process in lieu of proceeding under the original DRI review process. However, we will include the higher-level information that a DRI would generally include for review in order to help facilitate review of the proposed development.

2. Under the 'Water' heading of the County's Future Land Use amendment application (and its Attachment "J"), the County requested the submittal of the "completed SJRWMD Consumptive Use Worksheet and supporting information concerning growth projection or committee [should be 'committed'] capacity." Aside from a Demand Calculations worksheet for combined Water, Sewer, and Solid Waste for the project through anticipated build-out in 2040, and the City of Flagler Beach's letter dated January 8, 2019 regarding future water and wastewater utility availability from the City (with a Preliminary Absorption Schedule bearing a 9/13/2018 revision date attached), no other submittal was provided. Please demonstrate through the submittal - inclusive of the City's Consumptive Use Worksheets, facility capacity projections, Water Supply Plan, and similar technical documents - that the required water supply infrastructure improvements will be in place at the time that the final plat and/or site plan approval will be sought for each phase and sub-phase of the project. Please also note that there appears to be discrepancies between the Demand Calculations worksheet and the Preliminary Absorption Schedule; while these do not appear to be significant, the timing of the phasing of the absorption does not appear to be consistent.

RESPONSE: City of Flagler Beach will provide potable water and accept and treat wastewater generated from the development. When effluent meets reuse standards the City of Flagler Beach will provide reuse irrigation supply to the site. Water and sewer committed capacity will occur with platting and final site plan approval. Attached is updated absorption schedule and water and sewer demand calculations that are consistent.

3. Under the 'Sewer' heading of the County's Future Land Use amendment application (and its Attachment "J"), the County requested the submittal of the "completed FDEP operating information for previous 12 months." Aside from a Demand Calculations worksheet for combined Water, Sewer, and Solid Waste for the project through anticipated build-out in 2040, and the City of Flagler Beach's letter dated January 8, 2019 regarding future water and wastewater utility availability from the City (with a Preliminary Absorption Schedule bearing a 9/13/2018 revision date attached), no other submittal was provided. Please demonstrate through the submittal - inclusive of the City's FDEP operating reports, facility capacity projections, and similar technical documents - that the required sanitary sewer collection system and treatment system infrastructure improvements will be in place at the time that the final plat and/or site plan approval will be sought for each phase and sub-phase of the project. Please also note that there appears to be discrepancies between the Demand Calculations

worksheet and the Preliminary Absorption Schedule; while these do not appear to be significant, the timing of the phasing of the absorption does not appear to be consistent.

RESPONSE: City of Flagler Beach will provide potable water and accept and treat wastewater generated from the development. When effluent meets reuse standards the City of Flagler Beach will provide reuse irrigation supply to the site. Water and sewer committed capacity will occur with platting and final site plan approval. Attached is updated absorption schedule and water and sewer demand calculations that are consistent.

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RESPONSE: Noted. Pursuant to conversations with the City of Flagler Beach, capacity exists for the development. Please see letter from Flagler Beach included with this resubmittal.

5. For the 'Solid Waste' heading of the County's Future Land Use amendment application (and its Attachment "K"), previous Future Land Use amendment applicants have verified through Volusia County that sufficient capacity is available within Volusia's Tomoka landfill (or in future Class I landfill facilities programmed for development and/or expansion) to accommodate the project's impacts through its anticipated buildout. Please refer to the County's Interlocal Agreement with Volusia County effective April 1, 1991 (and recorded on November 26, 1990 at Official Records Book 441, Page 939, Public Records of Flagler County, Florida) and the Flagler County TRC Comments subsequent Agreement effective April 1, 1992 (and recorded on March 24, 1992 and recorded at Official Records Book 463, Page 1735, Public Records of Flagler County, Florida) for additional information.

RESPONSE: Developer has requested a solid waste availability confirmation from Volusia County and will provide upon receipt.

6. The parcel number listed at Section 2.4 and Section 3.6 in the applicant's submittal is incorrect: the parcel number should be listed as 13-12-31-0000-01010-0000.

RESPONSE: Please see the revised parcel identification number included in this resubmittal.

7. The draft text for the Comprehensive Plan Text Amendment - listed at Section 3.6 in the applicant's submittal - lists "a small portion designated as Mixed Use High Intensity"; the area of the Mixed Use Low Intensity and Mixed Use High Intensity will need to be

included here in terms of an approximate acre (+/-) measurement, along with its graphic depiction through the accompanying map - prepared by the County to be attached to the Future Land Use amendment ordinance.

RESPONSE: Please see revised graphic provided with this resubmittal.

8. The draft text for the Comprehensive Plan Text Amendment - listed at Section 3.6 in the applicant's submittal - appears to potentially add up to 250 additional residential units for "age targeted dwellings" through the draft text: "[a]n additional 250 of the Residential Units outlined above". It appears that the applicant's intent is to limit assisted living facility units to no more than 250 units and "age-targeted dwellings" to no more than 250 units, both to be taken from the total 3,966 units - the sum of the separate maximum 541 single family residential and maximum 3,425 multi-family residential units - instead of adding to this total; however, the draft text should be rephrased to eliminate any future ambiguity between the applicant's intent and the County's understanding of the request so that an "additional 250" units are not subsequently claimed.

RESPONSE: Please see the revised language of section 3.6 included in this resubmittal.

9. The draft text for the Comprehensive Plan Text Amendment - listed at Section 3.6 in the applicant's submittal - seeks the recognition that the previously conveyed 1,200-acre Public Lands "D" [listed in multiple parcels: Parcel #10-12-31-0000-00010-0011, Parcel #10-12-31-0000-00020-0011, and Parcel #39-12-31-0000-01010-0020] "be counted towards the overall open space calculation for the Project"; however, the Special Warranty Deed dated January 2, 2008 from Hammock Beach River Club, LLC to the Flagler County Board of County Commissioners (and recorded on January 4, 2008 at Official Records Book 1636, Page 1694, Public Records of Flagler County, Florida) only included reservations to the Grantor, their successors and assigns, that were linked to mitigation purposes "as may be required to comply with any state, federal, county or local government environmental permits pertaining to the [PUD] Property". At this time, County staff is not in favor of this application's approach to count this parcel's area towards this project's open space requirement since the previously-approved PUD (approved through Ordinance No. 2005-22 and recorded on May 3, 2006 at Official Records Book 1429, Page 19, Public Records of Flagler County, Florida) additionally allocated the non-upland areas of Public Land "D" for use by the developer for wetland mitigation purposes: "Any portion of the Conservation Area within Public Land "D" may be used in whole or in part as mitigation for the Project, as required by the St. Johns River Water management District ("SJRWMD") and/or U.S. Army Corps of Engineers ("USACOE") permits and Flagler County pursuant to a wetlands variance or similarly required approvals." The previous reservations by the former parcel owner and former developer - through the deed conveying the parcel and the previously-approved PUD did not specifically reserve this right of successors and assignees to additionally benefit from counting this land area towards any minimum required open space. County staff also notes the applicant's response in the applicant's submittal at subsection 4.2(VI) regarding open space: the response appears to be inconsistent to the applicant's intent not to provide additional open space. Flagler County TRC Comments

Technical Review Commitee April 24, 2019 Page 6

RESPONSE: Please see the revised language of Section 3.6 included with this resubmittal, removing the language regarding the previous conveyance of 1,200 acres. Our development plan exceeds the open space requirements under the land development regulations, and we would like to highlight the public benefit resulting from our proposed open space in addition to the land which was previously dedicated.

10. The applicant's narrative statements - listed at Section 4 in the applicant's submittal as a whole are overly optimistic towards the County's development. As listed in the County's 2010- 2035 Comprehensive Plan's Future Land Use Element (adopted July 6. 2011), the subject parcel is located within 'Coastal Area 3 (Bulow Creek)'; no significant development was anticipated within this area, as is described at Objective A.2.5 and its related policies. The County acknowledges that the bulk of the policies listed here in support of and implementing Objective A.2.5 have not been met since the included deadlines have elapsed, with the update to the County's Land Development Code still underway, the transportation analysis (Policy A.2.5.3) not completed and the County's management plan for Public Lands "D" (Policy A.2.5.4) also incomplete. Other Comprehensive Plan Goals, Objectives, and Policies - for example, Policy A.1.5.1, requiring that "[h]igher densities and intensities of development shall be located within areas where public facilities are available" - have not been specifically addressed by the applicant. The applicant's review should be expanded to be inclusive of all relevant Goals, Objectives, and Policies; County Planning staff can assist the applicant in the identification and review of these items.

RESPONSE: We are happy to work with the County to resolve any questions or concerns you may have over certain Comprehensive Plan Goals, Objectives, and Policies. As stated in our Technical Review Committee meeting, we look forward to hearing from the County regarding what policies should be specifically addressed.

11. The reference to Intergovernmental Coordination Element Goal I'D - listed at Section 4.1 in the applicant's submittal - is incorrect; this should be Goal I.1.

RESPONSE: Thank you. This reference has been revised.

12. Specific responses regarding 'Consistency with the Urban Sprawl Rule' - listed at Section 4.2 in the applicant's submittal - are also overly optimistic, citing for example the applicant's response for subsection (II) that (in relevant part): "public infrastructure and services are in place, and utility service is provided through the existing Utility Service Agreement". County staff also notes the present use of the bulk of the subject parcel - acknowledging the approved PUD - for silviculture uses (see applicant's response at subsection 4.2(V)). Additionally, the applicant's response for subsection 4.2(VIII) appears to miss the intended mark of the antisprawl criterion: the applicant is being asked to demonstrate that the proposed amendment either remediates a previously-approved sprawl condition or provides an innovative development pattern. The response cites the previous development's "financial difficulties" seemingly relying on the increase in density through the requested amendment to resolve the previous applicant's difficulties.

RESPONSE: Please see the revised Section 4.2 included with these resubmittal materials.

13. As an amendment to the Future Land Use Element's map and text, County staff will evaluate the applicant's requested amendment to the standards of Sec. 163.3177, F.S., specifically using the listing of prerequisite requirements listed at subsection 163.3177(6)(a)2. and subsection 163.3177(6)(a)8., acknowledging the need to also evaluate subsections 163.3177(6)(a)4., 5., and 7. and the applicability of these requirements to the requested land use amendment. While the applicant has evaluated the amendment's consistency with subsection 163.3177(6)(a)9.b., the analysis of subsection 163.3177(6)(a)9.a. [the urban sprawl indicators, as to the absence of the indicators through the proposed amendment] will also be completed by County staff as part of its review: responses to these submitted by the applicant would be helpful to the County.

RESPONSE: Please see the responses to section 163.3177(6)(a)9.a. below:

- I. Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.
 - a. The proposed project increases density on the property to allow for clustered development. Further, the mixed-use nature of the development plan combats single-use development.
- II. Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.
 - a. The project develops rural areas of the property that are currently undeveloped and allow for a lower density than proposed.
- III. Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.
 - a. The project does not use radial, strip, isolated, or ribbon patterns emanating from existing urban developments. Instead, the project proposes the use of rural lands for a mixed-use development that will cluster residential opportunities together to promote open space.
- IV. Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.
 - a. The project protects natural resources and preserves open space. The development includes wetland buffers as required under the land development regulations of Flagler County to preserve wetland areas located within and adjacent to the property.
- V. Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.
 - a. The proposed development allows for the continued use of the property for silvicultural activities, provided that proper buffering is in place between such activities and the proposed residential and retail uses on the property.
- VI. Fails to maximize use of existing public facilities and services.

- a. The project plans to utilize existing utility services offered by Flagler Beach.
- VII. Fails to maximize use of future public facilities and services.
 - a. The project plans to utilize existing utility services offered by Flagler Beach.
- VIII. Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.
 - a. The project will not disproportionately increase service costs for the County. While there is a suggested impact to the fire and emergency response for the County, the Applicant plans to meet with the Fire Department to resolve such issues to the satisfaction of both parties.
- IX. Fails to provide a clear separation between rural and urban uses.
 - a. Uses will be properly buffered to allow for a cohesive overall design of the mixeduse development, with clear distinctions between the residential and commercial areas of the project.
- X. Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.
 - a. This project promotes urban infill by clustering different land uses together within a single project.
- XI. Fails to encourage a functional mix of uses.
 - a. The mix of uses designed for this project are intended to complement one another to achieve a function mix of uses that will result in greater pedestrian oriented travel and urban infill opportunities.
- XII. Results in poor accessibility among linked or related land uses.
 - a. The project will include accessibility between each of the suggested land uses in a way that creates a natural flow and connectivity.
- XIII. Results in the loss of significant amounts of functional open space.
 - a. The project exceeds the requirements for open space under the Flagler County regulations.
 - 14. The trip generation analysis Technical Memorandum dated February 26, 2019 appears to be technically correct, but omits the non-residential development potential: 230,694 gross square feet of retail/office from the 2005 PUD (likely in the 33+/- acres of existing Mixed Use High Intensity) to 510,000 square feet (up to 150,000 square feet of office and up to 360,000 square feet of retail/marina) in the proposed amendment. Page 6 of the Technical Memorandum stated that: "[t]he existing non-residential entitlements remain unchanged." Flagler County TRC Comments.

RESPONSE: LTG prepared two separate analyses for this project. One of the technical memoranda evaluates the impact of the proposed future land use amendment which only increases the residential density of the property. The proposed future land use amendment does not increase the non-residential entitlements already permitted by the Comprehensive Plan for Mixed Use High Intensity. Some of the Mixed Use High Intensity entitlements are being transferred to the area around the proposed marina, but the overall amount of non-residential intensity is not being increased over what the Comprehensive Plan currently allows. The technical memorandum analyzes the impact of the density increase on the area roadways to the year 2040.

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The second memorandum evaluates the increase in residential density <u>and</u> commercial entitlements based on the PUD rezoning. This analysis examines the traffic impact based on the increase in residential and non-residential entitlements proposed in the rezoning application. This analysis is also based on a 2040 buildout horizon.

By providing these two technical memoranda, the County can see the net effect of the requested comprehensive plan amendment and the rezoning on the area roadways.

15. With regards to the trip generation analysis Technical Memorandum, the County reserves the right to seek peer review of the study's conclusions, particularly those that acknowledge that the project will generate an increase of 7,993 average daily trips at Phase 1 (2025) and an increase of 28,414 average daily trips at build-out, but not requiring any improvements or fairshare contributions (through this Future Land Use amendment) by the developer to resolve any deficiencies.

RESPONSE: Noted. Does the County have a timetable for providing peer-review comments?

With a projected build-out of 2040, it may be premature to estimate fair contributions with so many unknowns over the next 22 years. Proportionate share is typically calculated at the site plan or platting phase based on a specific development program and the availability of real time data, known traffic conditions and timely traffic counts.

Sincerely,

Robert A. Merrell III

Direct Dial (386) 323-9263 Email Rob.Merrell@CobbCole.com

Fax (386) 944-7955

RAM:ajf

THE GARDENS PROJECT FLAGLER COUNTY

Large Scale Comprehensive Plan Amendment

1. APPLICANT INFORMATION

1.1 Applicant Name and Address

Palm Coast Intracoastal, LLC

1.2 Primary Contact for Applicant

Palm Coast Intracoastal, LLC C/O Ken Belshe 145 City Place, St. 300 Palm Coast, FL 32164

1.3 Applicant's Authorized Representatives

Robert A. Merrell III, Esquire Cobb Cole

149 S. Ridgewood Avenue Daytona Beach, FL 32114

Office: 386/323-9263 Fax: 386/944-7955

Robert.Merrell@CobbCole.com

Parker Mynchenberg Parker Mynchenberg & Associates, Inc. 1729 Ridgewood Avenue

Holly Hill, FL 32117 Office: 386/677-6891 Fax: 386/677-2114

info@parkermynchenberg.com

2. Property Information

2.1 Nature of Applicant's Interest

The Applicant, Palm Coast Intracoastal, LLC is the fee simple owner of the subject Property. The applicants seek a Site-Specific Comprehensive Plan Amendment to the provisions of the Flagler County Comprehensive Plan. The 825 +/- acre subject property, as described in Exhibit A (the "property"), is located within the "Agricultural and Timberlands" Future Land Use. The Agricultural and Timberlands text establishes criteria for various properties, including density allowances.

The Applicants seek to amend the Comprehensive Plan by creating a new policy and issues dealing specifically with the $825 \pm$ - acre property and establishing maximums for uses within the property. The intent is to redevelop the property as a mixed-use development under a Planned Unit Development agreement.

2.2 <u>Size of Property and Survey</u>

The size of the Property is 825 +/- acres. See the copy of the Survey attached as Exhibit "A".

2.3 <u>Legal Description</u>

See Legal Description and copies of Property Appraiser Information Card and Warranty Deed attached as Exhibit "B".

2.4 Parcel Identification Number

13-12-31-0000-01010-0000

2.5 General Location

The Property is generally located in Flagler County, near the intersection of SR 100 and John Anderson Highway. See Location Map attached as Exhibit "C".

2.6 <u>Access + Frontage</u>

Street access and vehicular circulation will be provided via public and/or private rights of way within the Property. The Property has frontage on both SR 100 and John Anderson Highway.

3. Land Use Information

3.1 <u>Aerial Photography</u>

See Exhibit "D", attached.

3.2 Existing Development

The Property is currently undeveloped.

3.3 <u>Current Zoning</u>

The current zoning designation is PUD. See Existing Zoning Map attached as Exhibit "E". Applicant submitted an application to amend and restate the existing PUD concurrently with this application, which is consistent with the County's Comprehensive Plan, as amended herein.

3.4 Future Land Use Map Designation

The current FLU designation is "Agricultural and Timberland." See Current Future Land Use Map attached as Exhibit "F."

3.5 <u>Proposed Future Land Use Map Designation</u>

The proposed FLU designation is "Mixed Use Low Intensity" and a small portion of "Mixed Use High Intensity" See Proposed Future Land Use Map attached as Exhibit "G".

3.6 <u>Comprehensive Plan Text Amendments</u>

1. Policy A.1.1.10 – New Parcel Specific Limitation

(9) FLUM APPLICATION # , Palm Coast Intracoastal, LLC:

Approximately 825 +/- acres of property designated as Mixed Use Low

Intensity, with a small portion designated as Mixed Use High Intensity, is

limited to the use matrix provided below. The 2019 tax parcel number of
the subject property is: 13-12-31-0000-01010-0000.

<u>Single Family Residential:</u> 541 Units* Multi-Family Residential: 3,425 Units*

Office: 150,000 Square Feet Retail/Marina: 360,000 Square Feet

*250 of the Residential Units outlined above may be used for an Assisted Living Facility, and 250 of the Residential Units outlined above may be designated as age-targeted dwellings.

Uses within this property shall be allowed to consider the development as a whole, regardless of the Future Land Use designation, in regard to meeting the minimum and maximum percentages for Mixed Use developments set forth in this Comprehensive Plan.

4. Consistency and Compatibility

4.1 <u>Consistency with Plan Goals, Policies and Objectives of the Flagler County Comprehensive Plan</u>

The proposed amendment is consistent with several of the Goals, Policies and Objectives of the Comprehensive Plan, as outlined below. This amendment will allow development with uses that are consistent and compatible with the surrounding area.

Future Land Use Element

GOAL A.1: Flagler County shall strive to achieve orderly, harmonious and judicious use of the land through a distribution of compatible land uses, fostering the viability of new and existing communities while maintaining the agricultural pursuits of the County, and recognizing and preserving the integrity of the natural environment.

This project will provide a mixture of residential opportunities for Flagler County residents that will be provided in an orderly and harmonious fashion. The

proposed layout of the residential areas of the Project will include single-family, multi-family, and age restricted residential opportunities that will draw both residents and visitors alike to the area to work, live, and play. This new community will draw an increased tax base to the County and provide for newer and more efficient residences.

Policy A.5.2.2 Flagler County shall develop new regulations to encourage clustering of residential units and preservation of agricultural and natural resources such that agricultural resources are protected in the western area of Flagler County (area west of U.S. Highway 1). The regulations are intended to prevent a checker-board pattern of 5-acre home sites allowable under the Minor Rural Subdivision provisions.

This project uses smart design and clustering of residential units to promote open space and limit the sprawl of 5-acre home sites within the county by creating a cohesive community of residences that brings individuals together in an intelligent design.

Conservation Element

Objective F.1.11 Flagler County shall promote the protection of natural area reservations to lessen the adverse effects which adjacent developments might have on the managed conservation areas through implementation of various Land Development Regulations (LDRs) including transfer of development rights, clustering, Planned Unit Development (PUD) standards, permitting, and wetlands protection.

This project uses clustering and the planned development standards to promote a development that creates new and efficient development within the County without sacrificing the integrity of its natural areas. The use of clustering for residential units will create greater open space and natural views for residents and visitors, and the project will minimize wetland impacts on the Property.

Economic Development Element

Policy G.1.2.1 Flagler County will strive to limit residential tax burdens while funding facilities and services needed for economic development.

This project will decrease the overall residential tax burden by promoting more residents to live within Flagler County. The host of residential options provided by the project will result in greater ad valorem tax revenue for the city and will limit the overall tax burden on other residents. The project will also promote economic development through strategically placed commercial opportunities near the entrance of the Property, which will draw residents and visitors to the commercial area.

Policy G.1.2.6: Flagler County shall provide for mixed-use development in areas where such development would be appropriate and where it would help to provide accessible services and jobs for citizens.

This project is inclusive of a mixed-use development, as discussed above. The placement of commercial resources and opportunities in proximity to the planned residential areas will result in accessible services to residents of the community, and provide for job opportunities within a close distance of the new residents' homes.

Policy G.1.2.7 Flagler County shall continue to coordinate economic development efforts with all cities and other applicable agencies within the County and throughout the Northeast Florida region.

This project highlights the success of intergovernmental cooperation through the use of the Utility and Service agreement entered into by Flagler County and the City of Flagler Beach for the City of Flagler Beach to provide utility service to the future development.

Objective G.4.1: Flagler County shall provide land use regulations and planning tools to allow for geographically distributed land uses and development opportunities to accommodate economic opportunities throughout the County over the next planning cycle.

This project provides an opportunity for increased growth and development in a currently underutilized area of the County. By providing both residential and commercial business opportunities within the project, the Applicant believes that the project will be a catalyst for growth within the area that will provide greater economic opportunities to the County and will benefit both residents and visitors to the area.

Intergovernmental Coordination Element

Goal I.1.: Flagler County will develop and maintain intergovernmental coordination mechanisms necessary to achieve consistency among local, county and regional plans and policies and coordinate all development activities in order to improve delivery of services, enhance the quality of life and protect the natural environment.

This project highlights the success of intergovernmental cooperation through the use of the Utility and Service agreement entered into by Flagler County and the City of Flagler Beach for the City of Flagler Beach to provide utility service to the future development.

4.2 Consistency with the Urban Sprawl Rule

Section 163.3177(6)(a)(9)(b), Florida Statutes, provides that plan amendments shall be determined to discourage the proliferation of urban sprawl if they incorporate a development pattern or urban form that achieves four or more of the following:

(I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

<u>Response</u>: The Project will minimize wetland impacts and provide upland buffers within the area and conserve environmentally significant property within the development.

(II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

<u>Response</u>: The Property is located in an area where public infrastructure and services are in place, and utility service is provided through the existing Utility Service Agreement, thereby promoting the efficient and cost-effective provision of such infrastructure and services.

(III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

<u>Response</u>: The amendment allows a higher residential density than allowed under current land use designation and will allow for a mix of residential uses including single family, multi-family, and age-restricted housing options. The Project will include well-lit, walkable streets, multi-use trails, and sidewalks that will promote a multimodal transportation system as individuals, drive, walk, and bike around the neighborhood and associated amenities, or to nearby commercial opportunities.

(IV) Promotes conservation of water and energy.

<u>Response.</u> The clustering of residential units adjacent to commercial development allows for residents to walk, bike or take a short drive to commercial development which minimizes energy consumption. The project conserves environmentally sensitive wetlands on the Property and provides on-site stormwater treatment, retention and detention and groundwater recharge, which promotes water conservation.

(V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.

<u>Response</u>: The proposed development allows for the continued use of the property for silvicultural activities, provided that proper buffering is in place between such activities and the proposed residential and retail uses on the property.

(VI) Preserves open space and natural lands and provides for public open space and recreation needs.

<u>Response</u>: The proposed amendment will include open space areas of the development to help create a sense of place, and will also provide recreational amenities for residents.

(VII) Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.

<u>Response</u>: The proposed overall project includes a section of High Intensity Mixed-Use development near the State Road 100 entrance of the Property, which is already planned for High Intensity Mixed Use under the Future Land Use element of the comprehensive plan. This area will provide a balance of commercial opportunities to service the nearby and adjacent planned residential developments.

(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.

<u>Response</u>: The project uses innovative design strategies to allow for the clustering of residential developments to allow for greater open space throughout the development. Further, the project promotes internal capture by locating retail and office uses in close proximity to planned residential areas, allowing for greater pedestrian traffic opportunities as individuals walk or bike to employment and entertainment opportunities.

The proposed amendment promotes a development pattern and urban form that achieves seven of the preceding eight general policies. Accordingly, the proposed amendment exceeds the urban sprawl standards set forth in Section 163.3177(6)(a)(9)(b), Florida Statutes.

4.3 <u>Land Use Compatibility Analysis</u>

The proposed amendment seeks to amend an 825 +/- acre portion of the Flagler County FLU Map to a mixture of Mixed Use – High Intensity and Mixed Use – Low Intensity. The proposed amendment will not negatively alter the character that exists in the area at the present time. The amendment is intended to allow for improved planning and coordination for development of the Property. The primary uses of the Property will be consistent with the existing uses in the surrounding area, including but not limited to: commercial offices, restaurants, retail establishments, and single and multi-family residences.

The uses contemplated by this amendment and permitted through the future rezoning of the Property are consistent with the existing development in the vicinity of the Property. As further detailed in Section 5 below, the proposed amendment allows the development of the Property in a manner consistent with the Comprehensive Plan. For an overview of the FLU consistency, please refer to the existing and proposed FLU maps attached as Exhibits "F" and "G", respectively.

5. Conclusion

The proposed amendment is consistent with the Flagler County Comprehensive Plan as detailed herein. The amendment will permit the efficient integration of planning and management of the Property. The proposed amendment will ensure that the subsequent rezoning of the Property will not include any inconsistent uses with those currently anticipated throughout this area. The amendment will allow multi-use development in an appropriate location where it will be consistent with surrounding uses.

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EXHIBIT A

SURVEY

9 SURVEY BOUNDARY SHOWING MAP

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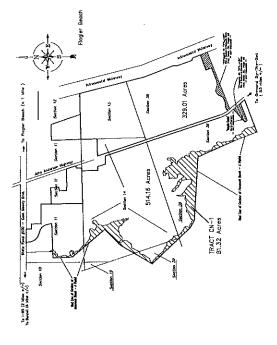
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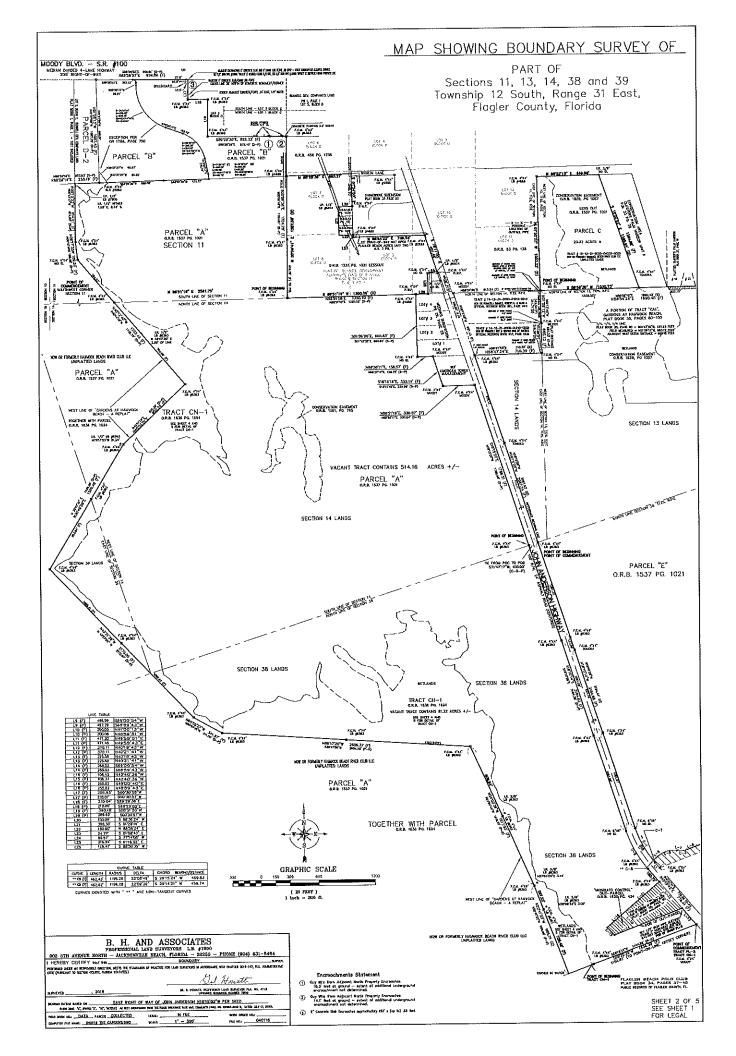
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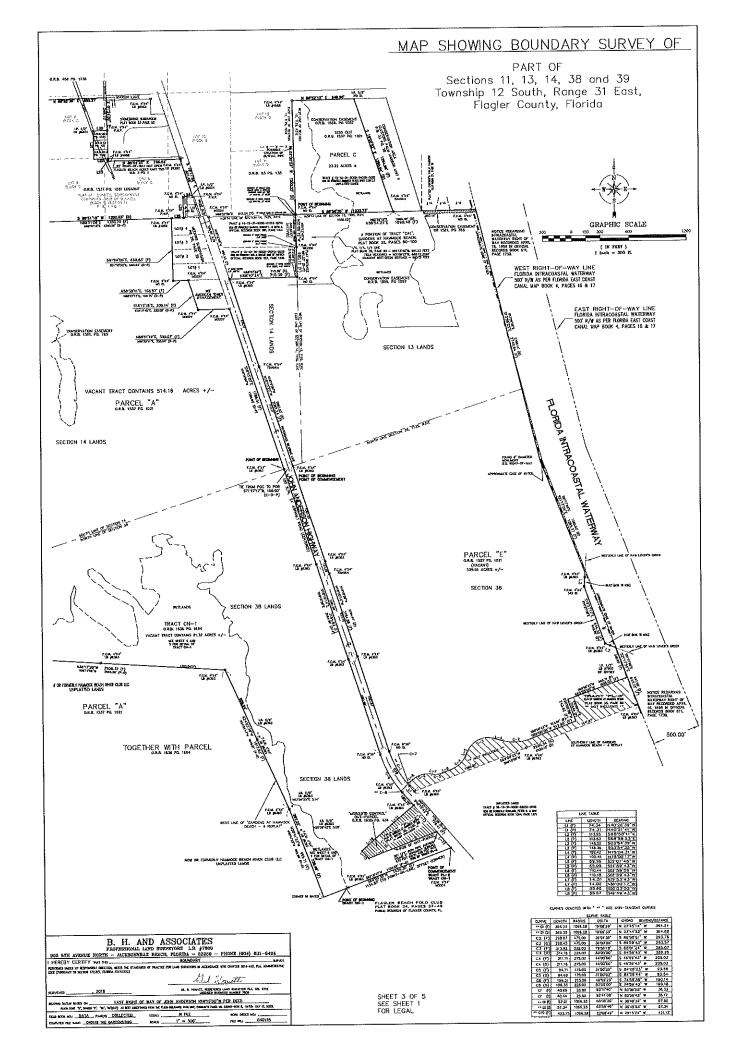
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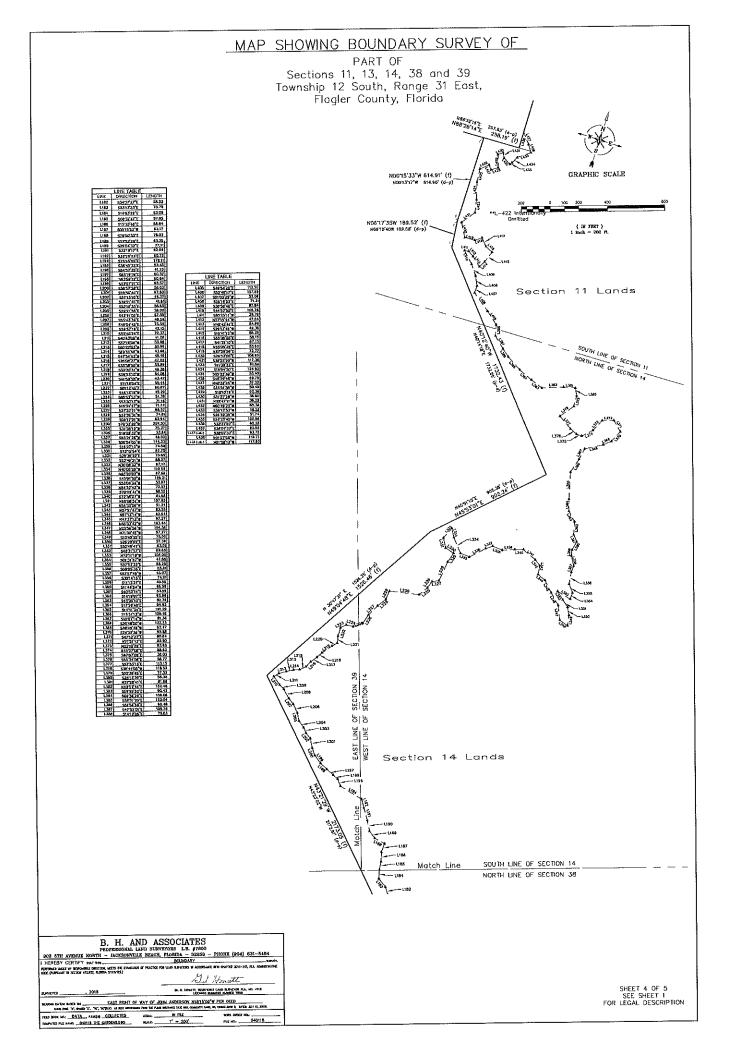
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B. H. AND ASSOCIATES
NOTE NOTE: JACONSTANDS BACK, TANDER, LE STORE SPECIAL STORES SPECIAL SPEC | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 OIL D. HOMATT, PROMIDED LAMB MANNON PLA. NO. 4718. , 2018 - XT 1/2" INOV PPE LB 47600 - FOUND INOV PPE AS WOITD - FOUND INOV PPE AS WOITD - AND POWER POST.







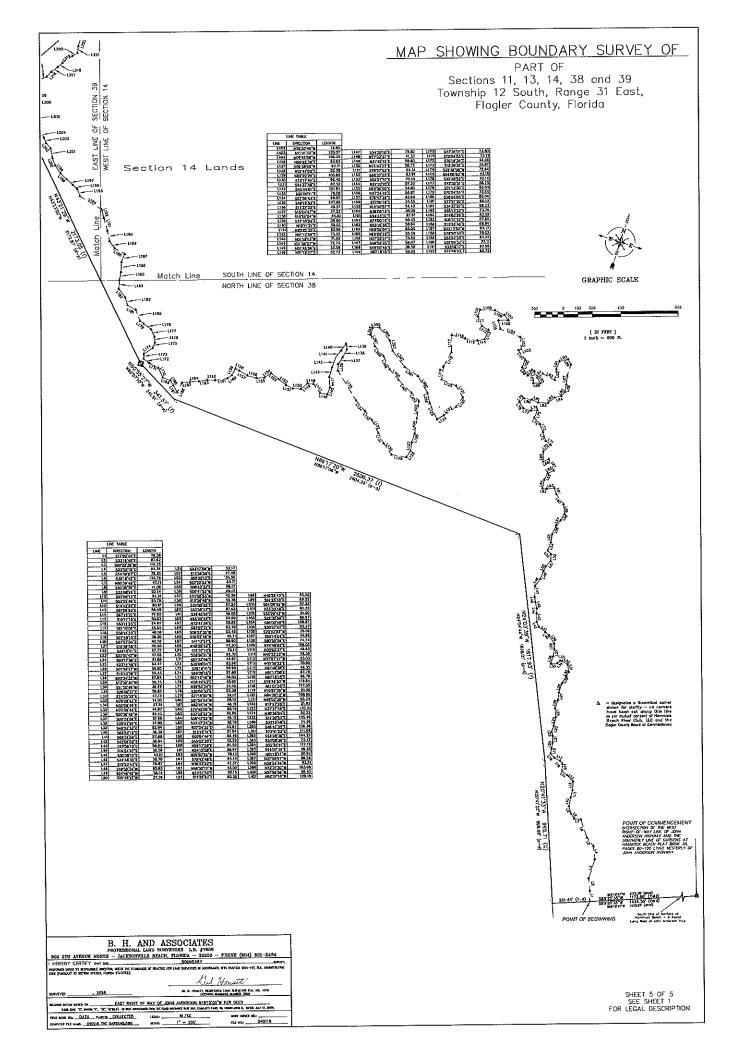


EXHIBIT B

$\frac{\textbf{LEGAL DESCRIPTION, PROPERTY APPRAISER INFORMATION CARD AND}}{\textbf{DEED}}$

② qPublic.net™ Flagler County, FL Property Appraisers Office

Owner Information

Primary Owner Palm Coast Intracoastal LLC 3129 Springbank Lane Charlotte, NC 28226

Parcel Summary

Parcel ID

13-12-31-0000-01010-0000

Location Address

FLAGLER BEACH 32136

Brief Tax Description* ALL TRACTS, LOTS, LANDS ACCORDING TO GARDENS AT HAMMOCK BEACH MB 35 PG 80 LESS AND EXCEPT TRACT "FD2" PORTION OF 'FD2', 81.32 AC IN OR

1636 PG 1694, TRACTS 'PL2' AND 'PL3' BCC RESOLUTION 2012-05 OR 1864 PG 371 OR 2281/1643 *The Description above is not to be used on legal documents.

Property Use Code

VACANT COM (001000)

Tax District Millage Rate UNINCORPORATED AREA WITH MOSQUITO CONTROL (District 1) 15.6747

Acreage Homestead Feet (GIS)

825.140

35943007.12

View Map

Valuation

	2019 Working	2018 Certifled Values	2017 Certified Values	2016 Certified Values
Building Value	\$0	\$0	\$0	\$0
Extra Features Value	\$0	\$0	\$0	\$0
Land Value	\$8,951,095	\$3,923,955	\$3,923,955	\$3,923,955
Land Agricultural Value	\$60,768	\$60,768	\$60,768	\$60,768
Agricultural (Market) Value	\$1,616,187	\$3,232,375	\$3,232,375	\$3,232,375
Just (Market) Value	\$10,567,282	\$7,156,330	\$7,156,330	\$7,156,330
Assessed Value	\$4,377,119	\$3,984,723	\$3,984,723	\$3,984,723
Exempt Value	\$0	\$0	\$0	\$0
Taxable Value	\$4,377,119	\$3,984,723	\$3,984,723	\$3,984,723
Protected Value	\$4,634,744	\$0	\$0	\$0

[&]quot;Just (Market) Value" description - This is the value established by the Property Appraiser for ad valorem purposes. This value does not represent anticipated selling price.

Historical Assessments

2018 TRIM Notice

TRIM Notice

Sales

Multi Par	cel Sale Date	Sale Price	Instrument	Book	Page	Qualification	Vacant/Improved	Grantor	Grantee
NI.	05/21/2018	\$11,500,000	WD	2281	1643	Qualified (Q)	Vacant	HAMMOCK BEACH RIVER CLUB LLC	

No data available for the following modules: Property Information, Residential Buildings, Commercial Buildings, Sketches, Building Area Types, Extra Features, Photos.

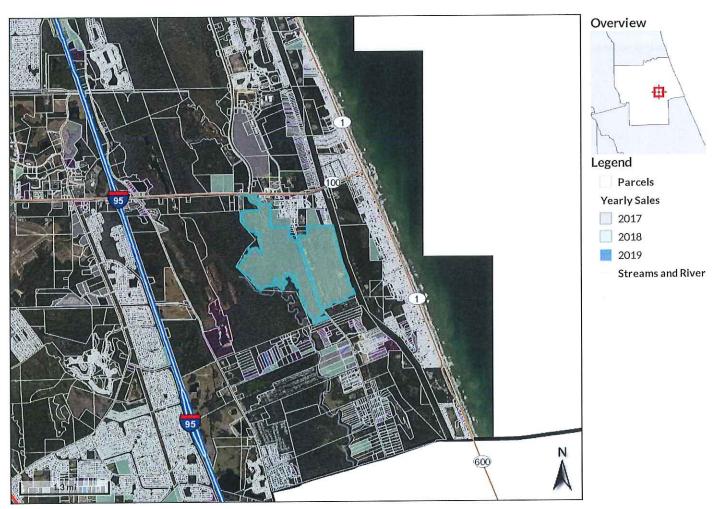
The Property Appraiser makes every effort to produce the most accurate information possible. No warranties, expressed or implied are provided for the data herein, its use or interpretation. The assessment information is from the last certified tax roll. If you feel that any information contained herein is incorrect, please contact our office at (386)313-4150.

Version 2.2.2



Last Data Upload: 2/26/2019 7:03:22 AM

qPublic.net[™] Flagler County, FL Property Appraisers Office



Parcel ID 13-12-31-0000-01010-0000 Class Code VACANT COM Taxing District Acres 825.14

PALM COAST Owner INTRACOASTAL LLC 3129 SPRINGBANK LANE Ag Land \$60,768 CHARLOTTE, NC 28226 Physical

n/a

Address

\$9,374,305 Last 2 Sales Land Value Date 5/21/2018 \$11500000 QUAL/MULT-Value Building \$0 n/a Value MLS Misc Value \$12,606,680 Just Value Assessed \$4,377,119 Value Exempt \$0 Value Taxable \$4,377,119

Value

Price

0

Reason

TAXIDS

n/a

PROP W/MULT-

Qual

Q

n/a

Date created: 2/26/2019 Last Data Uploaded: 2/26/2019 7:03:22 AM

Developed by Schneider

THIS INSTRUMENT PREPARED BY AND RETURN TO:

William C. Guthrie, Esq. Foley & Lardner LLP 111 N. Orange Avenue, Suite 1800 Orlando, FL 32801

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is made effective as of the day of limited liability company, whose address is 200 Ocean Crest Drive, Suite 31, Palm Coast, FL 32137 (hereinafter referred to as "Grantor"), to PALM COAST INTRACOASTAL, LLC, a Florida limited liability company, whose address is 3129 Springbank Lane, Charlotte, North Carolina 28226 (hereinafter referred to as "Grantee").

WITNESSETH:

THAT Grantor, for consideration in the sum of Ten Dollars (\$10.00) to it in hand paid by said Grantee, the receipt and sufficiency of which is hereby acknowledged, does by these presents, grant, bargain and sell, convey and confirm unto said Grantee, its successors and assigns, that certain real estate situated in the County of Flagler, State of Florida, and legally described on **Exhibit A** attached hereto and incorporated herein by reference (the "**Property**").

TOGETHER WITH the improvements thereon and the rights, easements, privileges, tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

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

AND Grantor hereby covenants with Grantee that Grantor is lawfully seized of the Property in fee simple; that Grantor has good right and lawful authority to sell and convey the Property; that Grantor does hereby fully warrant title to the Property and will defend the same against the lawful claims of all persons claiming by, through or under Grantor, but against none other; and that the land is free of all encumbrances except for the matters listed on **Exhibit B** attached hereto and incorporated herein by reference (collectively, the "**Permitted Exceptions**") and that title to the Property is conveyed subject to the Permitted Exceptions (provided, however, that reference thereto shall not serve to re-impose any of the same).

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed by its Manager, hereunto duly authorized, effective as of the day and year first above written.

GRANTOR: HAMMOCK BEACH RIVER CLUB, LLC, WITNESSES: a Georgia limited liability company By: LRA HB GARDENS, LLC, a Delaware limited liability company, its sole Member and sole Manager Senior Managing Principal STATE OF $\sqrt{}$ COUNTY OF MILELANC The foregoing instrument was sworn to, subscribed and acknowledged before me this day of Mux, 2018, by Stuart A. Margulies who is the Senior Managing Principal of LRA HB Gardens, LLC, a Delaware limited liability company, on behalf of the Company, the sole Member and sole Manager of Hammock Beach River Club, LLC, a Georgia limited liability company. He [Vis personally known to me or has [] produced a current Florida driver's license as identification. as identification or [] produced (NOTARY SEAL) Commission No.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL

JULIANNE WALSH Notary Public CITY OF PHILADELPHIA, PHILADELPHIA CNTY My Commission Expires Feb 14, 2021

EXHIBIT "A" – Page 1 of 3 Legal Description of Property

A portion of Lots 1, 3, 7, 8 and 9 and all of Lots 4, 10, 11 and 12, Block C, Bunnell Development Company's Land as recorded in Plat Book 1, Page 1, in the Public Records of Flagler County, Florida, together with a portion of Government Section 14, 38, and 39, Township 12 South, Range 31 East, Flagler County, Florida, situated in Government Sections 11, 14, 38 and 39, Township 12 South, Range 31 East, Flagler County, Florida, being more particularly described as follows:

Commence at the intersection of the East right of way line of John Anderson Highway (State Road 201) and the North line of said Section 38-12-31; thence South 71°47'17" West, a distance of 100.00 feet to a point on the West right of way line of John Anderson Highway (State Road 201), also being the Point of Beginning; thence along said West right of way line the following three courses: South 18°10'26" East, a distance of 3,184.36 feet to a point of curvature of a non-tangent curve concave Northeasterly having a radius of 1,196.28 feet, a central angle 22°09'26" and a chord distance of 459.74 feet which bears South 29°14'21 East; thence Southeasterly along the arc of said curve a distance of 462.62 feet; thence South 40°21'41" East, a distance of 776.28 feet; thence departing said West right of way line South 69°18'47" West, a distance of 1433.82 feet, thence North 20°41'22" West, a distance of 995.98, thence North 24°04'44" West, a distance of 1618.01 feet; thence North 86°17'06" West, a distance of 2,604.28 feet; thence North 60°37'10" West, a distance of 341.50 feet; thence North 43°23'02" West, a distance of 2,172.87 feet, thence North 30°47'31" East, a distance of 1,526.35 feet; thence North 45°31'15" East, a distance of 902.38 feet; thence North 40°14'18" West, a distance of 1,732.75 feet; thence North 06°10'40" West, a distance of 189.68 feet; thence North 00°15'33" West, a distance of 614.90 feet; thence North 88°32'16" East, a distance of 257.93 feet; thence North 01°27'08" West, a distance of 1,087.72 feet to a point on the South line of State Road No. 100; thence along said South right of way line South 89°29'03" East, a distance of 959.81 feet; thence departing said South right of way line South 00°30'57" West, a distance of 210.00 feet; thence South 89°29'03" East, a distance of 210.00 feet; thence South 00°30'57" West, a distance of 389.92 feet; thence South 89°28'38" East, a distance of 822.42 feet; thence South 00°06'48" East, a distance of 1,704.61 feet; thence North 88°51'12" East, a distance of 1350.55 feet; thence South 01°10'32" East, a distance of 660.84 feet; thence North 88°37'17" East, a distance of 158.75 feet; thence South 18°14'40" East, a distance of 330.09 feet; thence North 88°50'11" East, a distance of 330.04 feet to a point on the West right of way line of John Anderson Highway (State Road 201); thence along said right of way line South 18°15'00" East, a distance of 1,788.60 feet to the Point of Beginning.

EXHIBIT "A" – Page 2 of 3 Legal Description of Property

Together with

A portion of Sections 13, 14 and 38, Township 12 South, Range 31 East, Flagler County, Florida, being more particularly described as follows:

Beginning at the intersection of the East right of way line of John Anderson Highway (State Road 201) and the North line of said Section 38-12-31; thence along said East right-of-way line North 18°15'00" West, a distance of 2,087.53 feet; thence departing said East right of way line North 88°47'52" East, a distance of 710.35 feet to a point on the West line of Section 13-12-31; thence along said West Section line North 01°13'40" West, a distance of 661.23 feet to a point on the North line of Section 13-12-31; thence along said North Section line North 88°36'18" East, a distance of 1,890.40 feet to the point on the West right-of-way line of Florida Intracoastal Waterway; thence along said West right of way line the following two courses: South 13°59'25" East, a distance of 2,750.14 feet; thence South 21°17'55" East, a distance of 1265.83 feet; thence departing said West right of way line and along a Westerly line of the Historic Channel of Haw Lover Creek, South 03°54'35" West, a distance of 148.38 feet; thence South 19°27'08" East, a distance of 643.95 feet, thence South 68°38'53" East, a distance of 113.53 feet to a point on the aforesaid Intracoastal right-of-way, thence South 21°17'55" East, a distance of 647.80 feet; thence departing said right-of-way South 69°10'09" West, a distance of 2520.12 feet to a point on the East right of way line of John Anderson Highway (State Road 201); thence along said East right-of-way line the following three courses: North 40°21'41" West, a distance of 74.31 feet to a point of curvature of a non-tangent curve concave Northeasterly having a radius of 1,095.28 feet, a central angle of 22°09'21" and a chord distance of 421.29 feet which bears North 29°14'17" West; thence Northwesterly along the arc of said curve a distance of 423.92 feet; thence North 18°10'26" West, a distance of 3,184.44 feet to the Point of Beginning.

Formerly known as GARDENS AT HAMMOCK BEACH, according to the plat thereof as recorded in Plat Book 35, Pages 80 through 100, Public Records of Flagler County, Florida.

LESS AND EXCEPT: The land contained in the Quit Claim Deed recorded in Official Records Book 1620, Page 434, Public Records of Flagler County, Florida.

LESS AND EXCEPT: The land contained in the Special Warranty Deed recorded in Official Records Book 1636, Page 1694, Public Records of Flagler County, Florida.

LESS AND EXCEPT: The land contained in the Special Warranty Deed recorded in Official Records Book 1789, Page 750, Public Records of Flagler County, Florida.

LESS AND EXCEPT: Tracts PL-2 and PL-3, GARDENS AT HAMMOCK BEACH, according to the plat thereof as recorded in Plat Book 35, Pages 80 through 100, Public Records of Flagler County, Florida.

EXHIBIT "A" - Page 3 of 3 Legal Description of Property

TOGETHER WITH

A parcel of land in the South 1/2 of Section 11, Township 12 South, Range 31 East, Flagler County, Florida more particularly described as follows:

Commence at the Southwest corner of Government Section 11, Township 12 South, Range 31 East as monumented by a 4" x 4" concrete monument inscribed with a "t"; thence along the Southerly line of said Section 11 North 88°51'19" East a distance of 2591.75 feet to the Point of Beginning; thence North 00°06'41" East a distance of 1287.36 feet; thence North 88°28'36" East, a distance of 680.27 feet; thence South 01°24'50" East, a distance of 345.10 feet; thence South 88°36'24" West, a distance of 150.00 feet; thence South 01°28'15" East, a distance of 300.30 feet; thence North 88°36'24" East, a distance of 150.00 feet; thence South 01°08'43" East, a distance of 24.77 feet; thence North 88°54'22" East, a distance of 749.54 feet to a point on the Westerly right of way line of State Road 201, (also known as John Anderson Highway); thence along said Westerly right of way line, South 18°11'55" East, a distance of 401.46 feet; thence departing said right of way line, South 77°14'08" West, a distance of 99.57 feet; thence South 01°16'02" East, a distance of 216.94 feet; thence South 88°50'35" West, a distance of 126.47 feet to a point on the Southerly line of aforesaid Section 11; thence along said Southerly line South 88°51'19" West, a distance of 1,350.55 feet to the Point of Beginning.

TOGETHER WITH

A parcel of land in Section 12, Township 12 South, Range 31 East, Flagler County, Florida more particularly described as follows:

Begin at the Southwest corner of said Government Section 12, thence departing said Southerly line North 01°30'23" West a distance of 1203.23 feet along the Westerly line of said Section 12; thence North 88°52'15" East, a distance of 649.96 feet; thence South 19°00'52" East, a distance of 1,265.64 feet; thence South 88°56'30" West, along said Section line, a distance of 1,030.73 feet to the Point of Beginning.

Exhibit "B" Permitted Exceptions

- 1. The Gardens at Hammock Beach Community Development District established by Ordinance No. 2006-21 of Flagler County, Florida.
- 2. Ad valorem and non-ad valorem real estate taxes for the year 2018 and subsequent years, not yet due and payable.
- 3. All existing and applicable zoning ordinances, laws, codes, statutes and subdivision regulations and other governmental laws, rules, codes, statutes and regulations, in each case whether existing as of the date of this Special Warranty Deed or at any time thereafter.
- 4. Notice Regarding Intracoastal Waterway Right of Way Recorded April 16, 1998 in Official Records Book 611, Page 1739.
- 5. Ordinance No. 2005-22 recorded May 3, 2006 in Official Records Book 1429, Page 19.
- 6. Settlement Agreement between City of Flagler Beach, a municipal corporation of the State of Florida; Flagler County, a political subdivision of the State of Florida; The Gardens at Hammock Beach Property Owners' Association, Inc., a Florida not for profit corporation; and the City of Palm Coast, a municipal corporation of the State of Florida recorded April 11, 2007 in Official Records Book 1560, Page 471.
- Interlocal Agreement Water and Wastewater Service Area John Anderson Corridor recorded May 19, 2016 in Official Records Book 2129, Page 1549.
- 8. Notice of Establishment of The Gardens at Hammock Beach Community Development District recorded November 21, 2006 in Official Records Book 1508, Page 754.
- Conservation Easement to St. Johns River Water Management District (SJRWMD), a public body existing under Chapter 373, Florida Statutes recorded April 13, 2007 in Official Records Book 1561, Page 765.
- Conservation Easement to St. Johns River Water Management District (SJRWMD), a public body existing under Chapter 373, Florida Statutes recorded April 13, 2007 in Official Records Book 1561, Page 775 and Amendment recorded in Official Records Book 1859, Page 1057.
- 11. Flagler County Planning and Development Board Order No. 2987 recorded August 20, 2015 in Official Records Book 2081, Page 1056.
- 12. Restrictions, covenants, conditions, easements and other matters as contained on the Plat of BUNNELL DEVELOPMENT COMPANY'S LAND OF BUNNELL FLORIDA, recorded in Plat Book 1, Page 1.
- 13. Any and all rights of the United States of America over artificially filled lands in what were formerly navigable waters, arising by reason of the United States of America's control over navigable waters in the interest of navigation and commerce, and any conditions contained in any permit authorizing the filling in of such areas.

- 14. Rights of upper and lower stream owners in and to the use of the waters of Florida Intracoastal Waterway and to the continued uninterrupted flow thereof.
- 15. Rights of upper and lower stream owners in and to the use of the waters of Bulow Creek and to the continued uninterrupted flow thereof.
- 16. The nature, extent or existence of riparian rights is not insured.



EXHIBIT C

LOCATION MAP



Document Path: C:\Users\jbaeh\Dropbox (YBE)\GIS\Projects\AES\Hammock Beach (Gardens, Flagler)\MXD\location flum.mxd Date: 12/20/2018

Location Map Gardens Property Flagler County, Florida



EXHIBIT D

AERIAL MAP



Document Path: C:\Users\jbaeh\Dropbox (YBE)\GIS\Projects\AES\Hammock Beach (Gardens, Flagler)\MXD\aerial flum.mxd Date: 12/20/2018

Aerial Map Gardens Property Flagler County, Florida



WWW.ATLANTICECO.COM 904-347-9133 | jody@atlanticeco.com 201 Basque Rd | St. Augustine, FL 32080

EXHIBIT E

EXISTING ZONING MAP

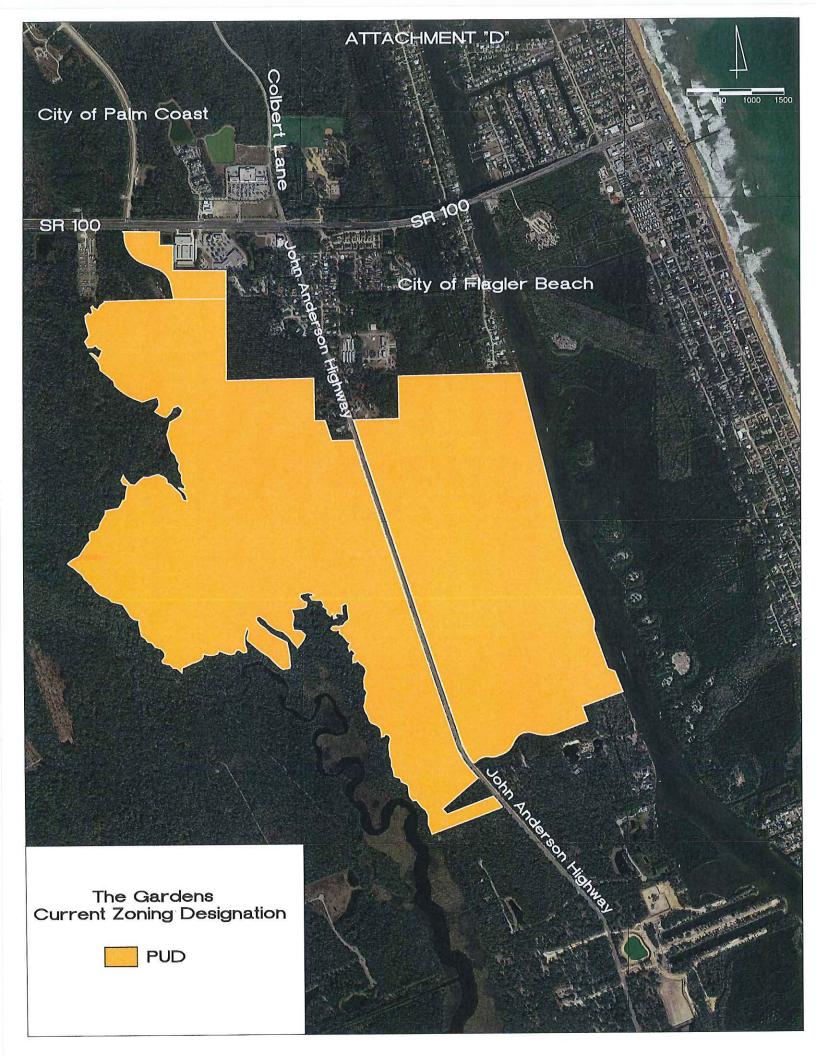


EXHIBIT F

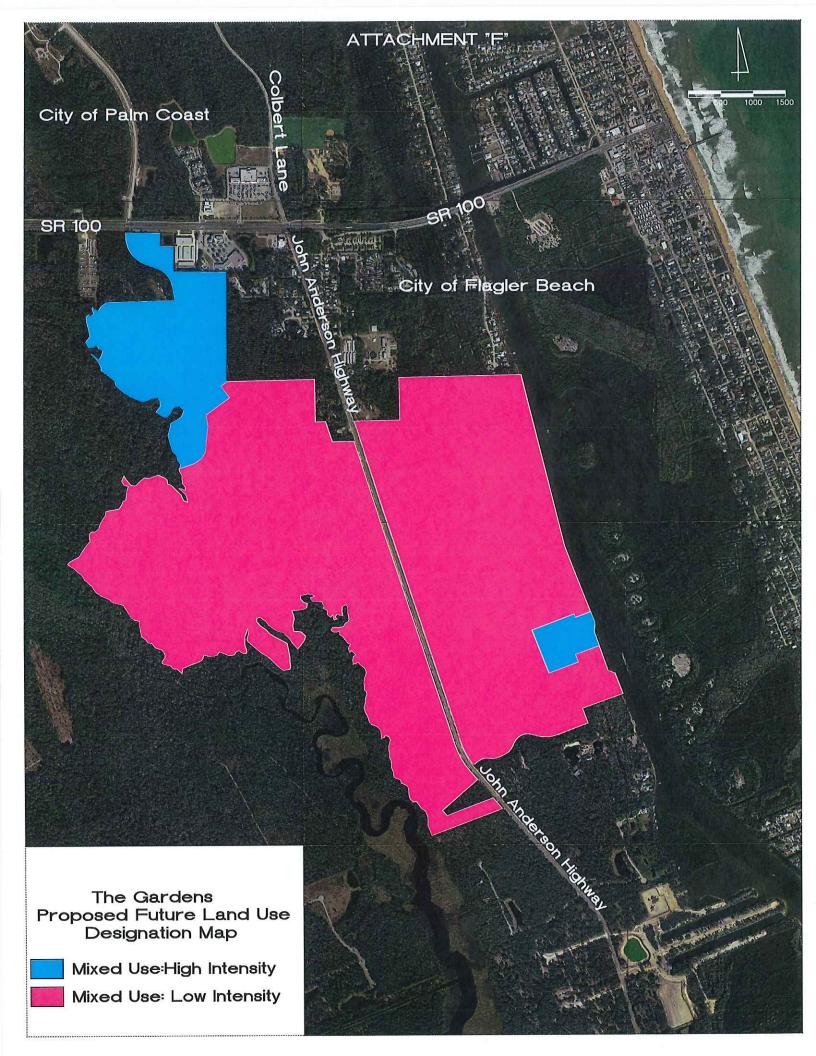
EXISTING FUTURE LAND USE MAP

{046146-001 : RMERR/Л.GOW : 02347236.DOCX; 1}



EXHIBIT G

PROPOSED FUTURE LAND USE MAP



The Gardens Preliminary Absorption Schedule

Revised 9/13/2018

Total	3966 units	(541 SF/3425 MF)	Commercial/Office	510,000 SF
Phase 5	438 residential units	(438 MF)	Commercial/Office	160,000 SF
Phase 4	1300 residential units	(1300 MF)	Commercial/Office	125,000 SF
Phase 3	1000 residential units	(1000 MF)	Commercial/Office	125,000 SF
Phase 2	700 residential units	(116 SF/612 MF)	Commercial/Office	100,000 SF
Phase 1	500 residential units	(425 SF/75 MF)	Commercial/Office	0 SF

Each phase is anticipated to be 5 years.

THE GARDENS WATER / SEWER / SOLID WASTE DEMAND CALCULATIONS

	Uses				Water				Sewer				Solid Waste						
	Single-Family	Multi-Family			Single-Family	Multi-Family	Commerical	Office		Single-Family	Multi-Family	Commerical	Office		Single-Family	Multi-Family	Commerical	Office	
	Residential	Residential	Commerical	Office	gpd/unit	gpd/unit		gpd/sf	TOTAL	gpd/unit	gpd/unit	gpd/sf	gpd/sf	TOTAL	lbs/unit	lbs/unit	lbs/sf	lbs/sf	TOTAL
Date	Units	Units	SF	SF	220	200	0.10	0.16	gpd	220	200	0.10	0.16	gpd	12.5	10	0.005	0.005	lbs/d
2020	25	-	-	-	5,500	-	-	-	5,500	5,500	-	-	-	5,500	313	-	-	-	313
2021	125	-	-	-	27,500	-	-	-	33,000	27,500	-	-	-	33,000	1,563	-	-	-	1,875
2022	150	100	-	-	33,000	20,000	-	-	86,000	33,000	20,000	-	-	86,000	1,875	1,000	-	-	4,750
2023	150	100	10,000		33,000	20,000	1,000	-	140,000	33,000	20,000	1,000	-	140,000	1,875	1,000	50	-	7,675
2024	91	242	30,000	20,000	20,020	48,400	3,000	3,200	214,620	20,020	48,400	3,000	3,200	214,620	1,138	2,420	150	100	11,483
2025	-	282	20,000	10,000	-	56,400	2,000	1,600	274,620	-	56,400	2,000	1,600	274,620	-	2,820	100	50	14,453
2026	-	282	30,000	20,000	-	56,400	3,000	3,200	337,220	-	56,400	3,000	3,200	337,220	-	2,820	150	100	17,523
2027	-	100	40,000	10,000	-	20,000	4,000	1,600	362,820	-	20,000	4,000	1,600	362,820	-	1,000	200	50	18,773
2028	-	160	40,000	10,000	-	32,000	4,000	1,600	400,420	-	32,000	4,000	1,600	400,420	-	1,600	200	50	20,623
2029	-	160	20,000	10,000	-	32,000	2,000	1,600	436,020	-	32,000	2,000	1,600	436,020	-	1,600	100	50	22,373
2030	-	282	20,000	10,000	-	56,400	2,000	1,600	496,020	-	56,400	2,000	1,600	496,020	-	2,820	100	50	25,343
2031	-	100	20,000	10,000	-	20,000	2,000	1,600	519,620	-	20,000	2,000	1,600	519,620	-	1,000	100	50	26,493
2032	-	180	20,000	5,000	-	36,000	2,000	800	558,420	-	36,000	2,000	800	558,420	-	1,800	100	25	28,418
2033 2034	-	180	20,000	5,000	-	36,000	2,000 2,000	800 800	597,220	-	36,000	2,000	800	597,220	-	1,800	100	25 25	30,343
2034	-	180 282	20,000	5,000 5,000	-	36,000	1,000	800	636,020	-	36,000	2,000 1,000	800	636,020	-	1,800 2,820	100		32,268
2035	-		10,000 10,000	5,000	-	56,400 20,000	1,000	800	694,220 716,020	-	56,400 20,000	1,000	800 800	694,220 716,020	-	1,000	50 50	25 25	35,163 36,238
2036		100 185	12,500	6,250	-	37,000 37,000	1,000	1,000	755,270	-	37,000	1,000	1,000	755,270	-	1,850	63	31	38,181
2037		170	12,500	6,250	-	34,000	1,250	1,000	791,520	-	34,000	1,250	1,000	791,520	-	1,700	63	31	39,975
2036	-	170	12,500	6,250	_	34,000	1,250	1,000	827,770	-	34,000	1,250	1,000	827,770	-	1,700	63	31	41,769
2039	_	170	12,500	6,250	-	34,000	1,250	1,000	864,020	-	34,000	1,250	1,000	864,020	-	1,700	63	31	43,563
2040	_	170	12,500	0,230	-	34,000	1,250	1,000	004,020	-	34,000	1,250	1,000	004,020	-	1,700	03	ا ا	43,303
TOTAL	541	3,425	360,000	150,000	119,020	685,000	36,000	24,000	864,020	119,020	685,000	36,000	24,000	864,020	6,763	34,250	1,800	750	43,563



City of Flagler Beach

P. O. Box 70. 105 South Second Street Flagler Beach, Florida 32136

Phone (386) 517-2000

January 8, 2019

Mr. Ken Belshe c/o Sunbelt Management 145 City Place Palm Coast, Florida 32137

Re: The Gardens Development

Dear Mr. Belshe,

Palm Coast Intracoastal, LLC has recently requested a utility service determination letter from the City of Flagler Beach for the property located along John Anderson Highway now known as The Gardens (formerly known as The Hammock Beach River Club). The City of Flagler Beach by virtue of an inter-local agreement with Flagler County is now the utility service provider for this area of the County.

Palm Coast Intracoastal, LLC has provided the City with an analysis of its anticipated development demands over the next 25 years, see attached. This is a currently an anticipated 5 phase build-out of The Gardens Project. It is also currently anticipated that this mixed use development will be composed of a combination single family, multi-family, and commercial development.

The City of Flagler Beach currently anticipates that adequate potable water and sanitary sewer capacity will be available at its potable water and wastewater facilities to provide service for the initial phase and the future phases of the Gardens project so long as funding allows. The City may elect to work with the developer in the pre-payment or partial repayment of water and sewer impact fees as different phases of development are being implemented to help to insure that water and sewer capacities are adequate when they are needed. In addition, we would also like to discuss the possibility in the future of providing reclaimed water to select areas of this development.

As the project commences and continues in future years, the City commits that they will continue to work with the developer and include this project in its future planning and engineering activities to ensure that the continued expansion of its potable water and wastewater facilities,

including wellfields, as required by the Florida Department of Environmental Protection to provide for the continued expansion of this development. This will hopefully ensure that this project will always have adequate water and wastewater capacity through its continued construction and ultimate buildout.

The City will coordinate and continue to work with your development / design team throughout the planning and development process to insure that sufficient water and sewer plant capacity continues to be made available to meet your development schedule.

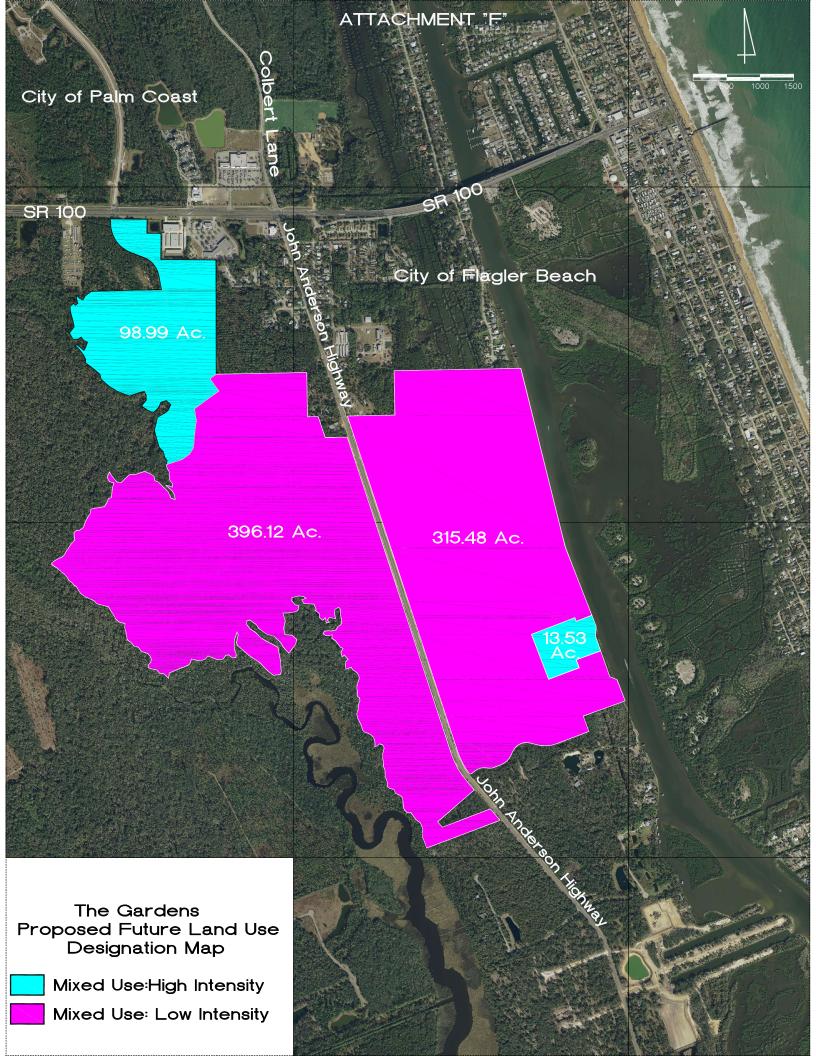
The Gardens Project will be responsible for any potable water and sewer force main extensions and in working with the City to insure that that all infrastructure needs are met in providing service. We are certainly looking forward to working with you providing utility service for this project.

Yours truly,

Larry Newsom City Manager

CC: Fred W. Griffith, P.E., Public Works Director

Enclosure: 25 year anticipated development demand



FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 4/17/2019

#3174- FLUM O- 10AC - PALM COAST INTRACOASTAL LLC

APPLICANT: ROBERT MERRELL II ESQ OWNER: PALM COAST INTRACOASTAL LLC

Distribution date: Monday, April 15, 2019

Project #: 2019020027

Application #: 3174

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: DEVELOPMENT ENGINEERING

No Comments

REVIEWING DEPARTMENT: COUNTY ATTORNEY

Comments Pending

REVIEWING DEPARTMENT: ENVIRONMENTAL PLANNER

No Comments

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No Comments

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

No Comments

REVIEWING DEPARTMENT: FIRE INSPECTOR

No Comments

REVIEWING DEPARTMENT: SCHOOL BOARD

Review of the proposed FLUM and PUD amendment lends to significant change in that Flagler County Schools would be directly impacted. The proposed amendment would increase our schools by over 533 students. This increase causes over capacity of our school and would likely need a mitigation agreement. The current impact fees do not generate enough revenue to support the students that would generated by this development.

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

1. The Development of Regional Impact (DRI) application submittal and review process has been made optional through statutory changes (see Sec. 380.06(12), F.S.), with projects able to opt for the State Coordinated Review Process for Comprehensive Plan amendments instead

(see Sec. 163.3184(4), F.S.). County staff requests that the applicant respond to why the State Coordinated Review Process - instead of the DRI process - will result in a better end result for Flagler County.

- 2. Under the 'Water' heading of the County's Future Land Use amendment application (and its Attachment "J"), the County requested the submittal of the "completed SJRWMD Consumptive Use Worksheet and supporting information concerning growth projection or committee [should be 'committed'] capacity." Aside from a Demand Calculations worksheet for combined Water, Sewer, and Solid Waste for the project through anticipated build-out in 2040, and the City of Flagler Beach's letter dated January 8, 2019 regarding future water and wastewater utility availability from the City (with a Preliminary Absorption Schedule bearing a 9/13/2018 revision date attached), no other submittal was provided. Please demonstrate through the submittal -inclusive of the City's Consumptive Use Worksheets, facility capacity projections, Water Supply Plan, and similar technical documents that the required water supply infrastructure improvements will be in place at the time that the final plat and/or site plan approval will be sought for each phase and sub-phase of the project. Please also note that there appears to be discrepancies between the Demand Calculations worksheet and the Preliminary Absorption Schedule; while these do not appear to be significant, the timing of the phasing of the absorption does not appear to be consistent.
- 3. Under the 'Sewer' heading of the County's Future Land Use amendment application (and its Attachment "J"), the County requested the submittal of the "completed FDEP operating information for previous 12 months." Aside from a Demand Calculations worksheet for combined Water, Sewer, and Solid Waste for the project through anticipated build-out in 2040, and the City of Flagler Beach's letter dated January 8, 2019 regarding future water and wastewater utility availability from the City (with a Preliminary Absorption Schedule bearing a 9/13/2018 revision date attached), no other submittal was provided. Please demonstrate through the submittal inclusive of the City's FDEP operating reports, facility capacity projections, and similar technical documents that the required sanitary sewer collection system and treatment system infrastructure improvements will be in place at the time that the final plat and/or site plan approval will be sought for each phase and sub-phase of the project. Please also note that there appears to be discrepancies between the Demand Calculations worksheet and the Preliminary Absorption Schedule; while these do not appear to be significant, the timing of the phasing of the absorption does not appear to be consistent.
- 4. For reference to the applicant, the Interlocal Agreement Water and Wastewater Service Area, John Anderson Corridor between Flagler County and the City of Flagler Beach dated May 16, 2016 (and recorded on May 19, 2016 at Official Records Book 2129, Page 1549, Public Records of Flagler County, Florida) does not create an obligation on the part of the City to provide water and wastewater service to this project or any project within the County's John Anderson Service Area. The entirety of the subject parcel is located within the boundaries of the County's Jon Anderson Service Area.
- 5. For the 'Solid Waste' heading of the County's Future Land Use amendment application (and its Attachment "K"), previous Future Land Use amendment applicants have verified through Volusia County that sufficient capacity is available within Volusia's Tomoka landfill (or in future Class I landfill facilities programmed for development and/or expansion) to accommodate the project's impacts through its anticipated buildout. Please refer to the County's Interlocal Agreement with Volusia County effective April 1, 1991 (and recorded on November 26, 1990 at Official Records Book 441, Page 939, Public Records of Flagler County, Florida) and the

subsequent Agreement effective April 1, 1992 (and recorded on March 24, 1992 and recorded at Official Records Book 463, Page 1735, Public Records of Flagler County, Florida) for additional information.

- 6. The parcel number listed at Section 2.4 and Section 3.6 in the applicant's submittal is incorrect: the parcel number should be listed as 13-12-31-0000-01010-0000.
- 7. The draft text for the Comprehensive Plan Text Amendment listed at Section 3.6 in the applicant's submittal lists "a small portion designated as Mixed Use High Intensity"; the area of the Mixed Use Low Intensity and Mixed Use High Intensity will need to be included here in terms of an approximate acre (+/-) measurement, along with its graphic depiction through the accompanying map prepared by the County to be attached to the Future Land Use amendment ordinance.
- 8. The draft text for the Comprehensive Plan Text Amendment listed at Section 3.6 in the applicant's submittal appears to potentially add up to 250 additional residential units for "agetargeted dwellings" through the draft text: "[a]n additional 250 of the Residential Units outlined above". It appears that the applicant's intent is to limit assisted living facility units to no more than 250 units and "age-targeted dwellings" to no more than 250 units, both to be taken from the total 3,966 units the sum of the separate maximum 541 single family residential and maximum 3,425 multi-family residential units instead of adding to this total; however, the draft text should be rephrased to eliminate any future ambiguity between the applicant's intent and the County's understanding of the request so that an "additional 250" units are not subsequently claimed.
- 9. The draft text for the Comprehensive Plan Text Amendment listed at Section 3.6 in the applicant's submittal - seeks the recognition that the previously conveyed 1,200-acre Public Lands "D" [listed in multiple parcels: Parcel #10-12-31-0000-00010-0011, Parcel #10-12-31-0000-00020-0011, and Parcel #39-12-31-0000-01010-0020] "be counted towards the overall open space calculation for the Project"; however, the Special Warranty Deed dated January 2, 2008 from Hammock Beach River Club, LLC to the Flagler County Board of County Commissioners (and recorded on January 4, 2008 at Official Records Book 1636, Page 1694, Public Records of Flagler County, Florida) only included reservations to the Grantor, their successors and assigns, that were linked to mitigation purposes "as may be required to comply with any state, federal, county or local government environmental permits pertaining to the [PUD] Property". At this time, County staff is not in favor of this application's approach to count this parcel's area towards this project's open space requirement since the previously-approved PUD (approved through Ordinance No. 2005-22 and recorded on May 3, 2006 at Official Records Book 1429, Page 19, Public Records of Flagler County, Florida) additionally allocated the non-upland areas of Public Land "D" for use by the developer for wetland mitigation purposes: "Any portion of the Conservation Area within Public Land "D" may be used in whole or in part as mitigation for the Project, as required by the St. Johns River Water management District ("SJRWMD") and/or U.S. Army Corps of Engineers ("USACOE") permits and Flagler County pursuant to a wetlands variance or similarly required approvals." The previous reservations by the former parcel owner and former developer - through the deed conveying the parcel and the previously-approved PUD - did not specifically reserve this right of successors and assignees to additionally benefit from counting this land area towards any minimum required open space. County staff also notes the applicant's response in the applicant's submittal at subsection 4.2(VI) regarding open space: the response appears to be inconsistent to the applicant's intent not to provide additional open space.

- 10. The applicant's narrative statements listed at Section 4 in the applicant's submittal as a whole are overly optimistic towards the County's development. As listed in the County's 2010-2035 Comprehensive Plan's Future Land Use Element (adopted July 6, 2011), the subject parcel is located within 'Coastal Area 3 (Bulow Creek)'; no significant development was anticipated within this area, as is described at Objective A.2.5 and its related policies. The County acknowledges that the bulk of the policies listed here in support of and implementing Objective A.2.5 have not been met since the included deadlines have elapsed, with the update to the County's Land Development Code still underway, the transportation analysis (Policy A.2.5.3) not completed and the County's management plan for Public Lands "D" (Policy A.2.5.4) also incomplete. Other Comprehensive Plan Goals, Objectives, and Policies for example, Policy A.1.5.1, requiring that "[h]igher densities and intensities of development shall be located within areas where public facilities are available" have not been specifically addressed by the applicant. The applicant's review should be expanded to be inclusive of all relevant Goals, Objectives, and Policies; County Planning staff can assist the applicant in the identification and review of these items.
- 11. The reference to Intergovernmental Coordination Element Goal I'D listed at Section 4.1 in the applicant's submittal is incorrect; this should be Goal I.1.
- 12. Specific responses regarding 'Consistency with the Urban Sprawl Rule' listed at Section 4.2 in the applicant's submittal are also overly optimistic, citing for example the applicant's response for subsection (II) that (in relevant part): "public infrastructure and services are in place, and utility service is provided through the existing Utility Service Agreement". County staff also notes the present use of the bulk of the subject parcel acknowledging the approved PUD for silviculture uses (see applicant's response at subsection 4.2(V)). Additionally, the applicant's response for subsection 4.2(VIII) appears to miss the intended mark of the antisprawl criterion: the applicant is being asked to demonstrate that the proposed amendment either remediates a previously-approved sprawl condition or provides an innovative development pattern. The response cites the previous development's "financial difficulties" seemingly relying on the increase in density through the requested amendment to resolve the previous applicant's difficulties.
- 13. As an amendment to the Future Land Use Element's map and text, County staff will evaluate the applicant's requested amendment to the standards of Sec. 163.3177, F.S., specifically using the listing of prerequisite requirements listed at subsection 163.3177(6)(a)2. and subsection 163.3177(6)(a)8., acknowledging the need to also evaluate subsections 163.3177(6)(a)4., 5., and 7. and the applicability of these requirements to the requested land use amendment. While the applicant has evaluated the amendment's consistency with subsection 163.3177(6)(a)9.b., the analysis of subsection 163.3177(6)(a)9.a. [the urban sprawl indicators, as to the absence of the indicators through the proposed amendment] will also be completed by County staff as part of its review: responses to these submitted by the applicant would be helpful to the County.
- 14. The trip generation analysis Technical Memorandum dated February 26, 2019 appears to be technically correct, but omits the non-residential development potential: 230,694 gross square feet of retail/office from the 2005 PUD (likely in the 33+/- acres of existing Mixed Use High Intensity) to 510,000 square feet (up to 150,000 square feet of office and up to 360,000 square feet of retail/marina) in the proposed amendment. Page 6 of the Technical Memorandum stated that: "[t]he existing non-residential entitlements remain unchanged."

15. With regards to the trip generation analysis Technical Memorandum, the County reserves the right to seek peer review of the study's conclusions, particularly those that acknowledge that the project will generate an increase of 7,993 average daily trips at Phase 1 (2025) and an increase of 28,414 average daily trips at build-out, but not requiring any improvements or fair-share contributions (through this Future Land Use amendment) by the developer to resolve any deficiencies.

CITY OF FLAGLER BEACH

Comments Pending

CITY OF PALM COAST:

Review for Flagler County FLUM and PUD 825 acres; original PUD was 1,999 acres Environmental Review:

Staff has reviewed the 2005 PUD and cross-referenced the performance standards associated with proposed amendment. The following sections inventory staff feedback.

Proposed Section 7.1 General Development Standards

1. A footnote was added to the residential uses that reflected that assisted living facilities is a permissible use. The project area includes Special Flood Hazard Areas pursuant to the effective Flood Insurance Rate Map Panels. ALFs are considered critical facilities and shall be directed away from SFHA. Recommend that Section 7.3 prohibits critical facilities including ALF uses in the SFHA.

Proposed Section 7.3 Finished Floor Elevations

- 2. Approximately ½ of the project area is within the Special Flood Hazard Area. Pursuant to the NFIP and CRS program, development should be directed away from the SFHA and impacts/encroachments shall be minimized to the greatest extent practicable. To ensure that the development doesn't increase risk of flood, staff recommends that a CLOMR-F and ultimately a LOMR-F be required for the entire project area to ensure that insurable structures, all critical facilities and utility facilities are outside the SFHA before final plat. Encroachments to the SFHA shall be minimized to the greatest extent practicable. Proposed Amendment Section 8.1 Open Space
- 3. According to Habitat Map FLUCFCS codes, mixed wetland hardwoods (617) and mixed upland mixed coniferous/hardwood (434) vegetative communities exist within the project limits. Staff recommends that a tree survey is conducted to identify index trees and associated hardwood canopies to ensure that uses compliment the natural landscape and to encourage clustering and open space protection of hardwood canopies.

4. Also, suitable soil types exist on the east side of John Anderson that can support a multitude of protected species, including but not limited to gopher tortoise, eastern indigo snake, and other scrub community dependent species. Note Flagler County Comp. Plan Policy F.1.10.2 has provisions to protect habitat and viable populations of protected species. A Preliminary Listed Species Assessment should be produced and reviewed prior to final consideration of the Proposed Amendment.

Proposed Amendment Section 8.2 Wetlands

- 5. City staff recommends that the original Section 7.2 Bulow Creek & Graham Swamp Buffer requirements of the 2005 PUD is transferred to the new amendment.
- 6. Flagler County LDC states that areas of special concern (Bulow Creek and Graham Swam) shall have a minimum buffer of 75ft 6.02.09.C.2 and 6.02.09.D.
- 7. Staff recommends that an Avoidance and Minimization Study for the wetlands should be conducted, as well as No Net Loss in Wetland Function.

Proposed Amendment Section 8.4 Boat Docks and Boathouses

- 8. Include a reference to the Manatee Protection Plan in the provisions.
- 9. Are any of the referenced facilities open to the public? The 2005 PUD noted a boat ramp accessible by the public.
- 10. Reference to "Marina facilities" was noted, recommend including a requirement to adhere to the "Clean Marina" standards and certification.
- 11. Along the Intracoastal Waterway and contiguous with single-family residential properties, a common area/conservation easement is noted. The proposed alignment of single-family lots do not have riparian rights and further the "conservation easement" would inhibit access for accessory dock structures.

Remove bullet: "Subject to Developer approval, docks for single-family homes will be permitted on an individual basis for lots contiguous to the Intracoastal Waterway."

12. Reference to Bulow Creek access should incorporate a standard that community dock location shall consider the extent of wetland impacts associated with proposed improvements. Cross- reference Section 8.2 regarding activities permitted within wetlands areas and associated buffers.

Proposed Amendment Section 6.1 Stormwater

13. Bulow Creek, an Aquatic Preserve extends into the project limits. Higher standards should be integrated into the proposed PUD to ensure that water quality and adequate buffering is sufficiently addressed.

As noted by the Flagler County LDC, Bulow Creek and Graham Swamp are listed as Areas of Special Concern and reflected as such in the amendment. In summary, a 75-foot minimum upland buffer should be required. Further note that Bulow Creek is a FEMA regulatory

floodway.

Proposed Amendment Section 6.2 Irrigation

14. If reclaimed water is not the primary irrigation, Florida Water Star standards for the project area shall be applied to all common areas and amenities. (Flagler County Comp. Plan Policy F.1.6.6-4)

Cultural and Historical Resources

- 15. According to the Division of Historical Resources Master Site File, numerous Flagler Sites have been identified within the project site. Includes, but not limited to the following. Has DHR provided any input on these references? (Flagler County Comp. Plan Policy F.1.13.4)
- " FL00216 Shell Midden
- " FL00221 Shell Midden
- " FL00231 Scattered Ceramic
- " FL00217 Scattered Ceramic
- " FL00220 Building Remains
- " FL00218 Scattered Ceramic

Hazardous Materials

16. According to the Division of Historical Resources Master Site File, FL00225 Dip Vat is located on the east side of John Anderson. Is there any record of the site being addressed/closed? If no record exists, staff recommends that remediation is addressed as part of the amendment.

Comments on proposed FLUM amendment.

- 1. No analysis on the impact of proposed FLUM amendment on the following existing public facilities/infrastructure is provided, if necessary, analysis of the public improvements necessary to accommodate the proposed intensification of development should be provided.
- " Water and Sewer,
- " Parks facilities,
- " Educational facilities,
- " Solid Waste,
- " Drainage facilities
- 2. No analysis on the appropriateness of the proposed FLUM amendment's impacts on the surrounding existing land uses is provided.
- 3. No analysis on the impacts of the proposed land use intensification and its impacts within the Coastal High Hazard Area (CHHA) is provided.



Community Development Department Planning Division

160 Lake Avenue Palm Coast, FL 32164 386-986-3736

April 15, 2019

Adam Mengel, AICP, LEED AP BD+ Planning Director 1769 E. Moody Blvd. Bldg. 2 Bunnell, FL 32110

RE: The Gardens-Future Land Use Map Amendment & Planned Unit Development Applications

Dear Mr. Mengel:

Thank you for allowing City of Palm Coast staff to review the proposed project applications above. Based on our review, we have compiled the following comments, as well as requests for additional information which are necessary for a more in-depth consideration and analysis of the impacts of the proposed amendments.

If you have any questions, please do not hesitate to contact Jose Papa, AICP, at 986-2469.

Sincerely,

Ray Tyner, Planning Manager

c. Beau Falgout, Assistant City Manager Stephen Flanagan, Director, Community Development Richard Adams, Director, Utilities Department



FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 7/17/19

#3175- PUD AMENDMENT- GARDENS

OWNER: PALM COAST INTRACOASTAL LLC APPLICANT: ROBERT MERRELL ESQ, COBB COLE ATTORNEYS AT LAW

Distribution date: Friday, July 12, 2019

Project #: 2019020029

Application #: 3175

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: FIRE INSPECTOR

Comments Pending

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

As a supplement to previous Planning comments, incorporate into the PUD development agreement text efforts proposed by the developer to achieve concurrency with the County's adopted level of service standards (See Land Development Code Article VIII. - Consistency and Concurrency Determination). This may include proposed phasing, and should address: potable water; wastewater; drainage; solid waste; recreation; and transportation.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

Please note that if any wells, public pools, or group care facilities are constructed as part of the proposed development; application, plan reviews, permitting, and inspections will be required through the Florida Department of Health in Flagler County prior to construction.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

No additional comments.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

Comments Pending

REVIEWING DEPARTMENT: E-911 STAFF

REVIEWING DEPARTMENT: ENVIRONMENTAL PLANNER

The Gardens project, as proposed, is an exceptionally intensive increase in proposed development from the previous Gardens project in one of the most environmentally sensitive areas of Flagler County. The proposed development numbers, without infrastructure already in place, raises concern that the development has not fully considered the natural resources of this area. Language utilized throughout the draft PUD agreement conveys a theme of deferring to the minimum effort to address environmental concerns and community while maximizing potential development.

PUD Agreement

- 6.1 Stormwater discharge will meet and be maintained to Outstanding Florida Waters standards.
- 6.2 The Project will utilize reclaimed water as primary irrigation source. Irrigation from private wells is prohibited until after reclaimed service is provided and then only as backup.
- 7.0 Project shall be designed to meet National Fire Protection Association Firewise USA standards.
- 7.1 Please be aware that Flagler County is required to conduct prescribed fires on the property to the west the property known as Bulow Park or Public Land "D". The smoke generated by prescribed fire activity has high potential to drift to the east onto this proposed development despite any and all efforts to the contrary. The Applicant is advised to inform all future residents that the location is adjacent to a large tract of public land where land management activities occur which mimic and recreate historic natural processes. Older persons in particular may be more susceptible to smoke impacts, age targeted housing or assisted living facilities residents represent the most vulnerable citizens to wildfire and prescribed fire smoke. Please remove the references to the age targeted housing and assisted living facilities.
- 8.1 The 1200 acres of land to the west of the Project were donated and accepted by the County as part of the previous Project, which has increased to the point the two Projects are no longer related. The 1200 acres was conveyed in accordance with Flagler County Ordinance 2005-22, which project is no longer contemplated and this current Project may not utilize that property towards open space calculations.
- 8.2 Please remove all language superseding the Flagler County wetland code. Flagler County will require a Wetland Alteration Permit and will defer to the state and federal permitting requirements where law requires, but will retain all facets of the local rule, particularly its own discretion for minimization and avoidance.
- 8.4 The Project PUD proposes up to two community docks on Bulow Creek. Please identify where the development owns property along Bulow Creek. Furthermore please explain how this proposal would be compatible with LDC 3.06.10.

From: Adam Mengel, AICP, LEED AP BD+C

To: <u>Gina Lemon; Wendy Hickey; "Kate Stangle"; Susan Graham</u>

Cc: Al Hadeed; Sean S. Moylan; Jerry Cameron

Subject: FW: The Gardens

Date: Wednesday, July 3, 2019 4:20:46 PM
Attachments: The Gardens Response cov lttr 7.2.19.pdf

Staff Report P & Z LUA THE GARDENS (1) 7.2.19.pdf PUBLIC SAFETY STAFF FINDINGS THE GARDENS 7.2.19.pdf FB FIRE DEPT. STAFF FINDINGS THE GARDENS 7.2.19.pdf FB ENG DEPT STAFF FINDINGS THE GARDENS.pdf

FYI from the City of Flagler Beach regarding the Gardens project

Adam Mengel, AICP, LEED AP BD+C

Planning Director

E: amengel@flaglercounty.org | V: 386-313-4065 | W: www.flaglercounty.org



Flagler County Board of County Commissioners

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









From: Larry Torino <LTorino@CityofFlaglerBeach.com>

Sent: Tuesday, July 2, 2019 12:09 PM

To: Adam Mengel, AICP, LEED AP BD+C <amengel@flaglercounty.org>

Cc: Larry Newsom <LNewsom@CityofFlaglerBeach.com>; Matthew Doughney <MDoughney@fbpd.org>; Robert Pace <RPace@fbfire.org>; Fred Griffith

<fgriffith@cityofflaglerbeach.com>

Subject: The Gardens

Good Morning,

Attached for your information and reference is the initial response report from the City of Flagler Beach reviewing departments. Thank you for the opportunity to participate in the review process. If you have any questions feel free to contact the office.

Regards,

Larry Toríno Growth Management



City of Flagler Beach

Building & Zoning Department

PO Box 70 116 South 3rd Street Flagler Beach, Florida 32136 Phone (386) 517-2000. Fax (386) 517-2016

www.cityofflaglerbeach.com

July 2, 2019

Mr. Adam Mengel, AICP, LEED, AP BD+ Planning Director, Flagler County 1769 E. Moody Blvd. Bldg. #2 Bunnell, FL 32110

RE: The Gardens:
Application #3174 – Land Use Amendment
Application #3175 – Planned Unit Development Agreement (restated)

Dear Adam,

Kindly find attached the City of Flagler Beach initial response to the proposed "The Gardens" Application #3174 (Land Use Amendment) and #3175 (Restated PUD Agreement). Thank you for the opportunity to participate in this review process. I trust additional information will be forthcoming as the respective applications progress, over time. Our office stands prepared to participate in this effort as more information becomes available.

Kindly feel free to contact the office should you have any questions.

Respectfully,

Growth Management (386) 517-2000 ext. 230

cc. Larry Newsom, City Manager Matt Doughney, Police Chief Robert Pace, Fire Chief Fred Griffith, City Engineer



City of Flagler Beach

Planning and Building Department

6.21.19 - Rev.

APPLICATION #3174 - The GARDENS: - FUTURE LAND USE MAP AMENDMENT

Parcel Number: 13-12-31-0000-01010-0000

NOTE: Comprehensive Report Content: Incorporates staff response to Applicant's initial submittal and Applicant's 1st response comments.

PART ONE:

SUMMARY IN BRIEF

Purpose:

- 1. To provide a comprehensive report as an adjacent jurisdiction with substantial interest in protecting the integrity, quality of life and vision of Flagler Beach and community.
- 2. To review and evaluate Flagler County Future Land Use Amendment Application #3174 as it relates to compliance with relevant Goal's Objectives and Policies of the adopted Flagler County Comprehensive Plan. This effort focuses primarily on Objectives and Policies inasmuch as Objectives and Policies are more specific, achievable and measurable than Goals.

1. APPLICATION SUMMARY

<u>Objective</u>: To secure a Large Scale Comprehensive Plan Amendment changing the Future Land Use Map (FLUM) and Future Land Use (FLU) designation of 825 +/- acres (1.3 sq. mi.) from Agriculture and Timberland to Mixed Use - High Intensity and Mixed Use - Low Intensity.

I. General Information

PROPERTY OWNER	Palm Coast Intracoastal, LLC		
AGENT/APPLICANT	Cobb Cole by Robert A. Merrell III, Esquire Parker Mynchenberg & Assoc.		
PROPERTY SIZE	825+/- acres		
PARCEL ID	13-12-31-0000-01010-0000		
LOCATION	John Anderson (Generally)/South of SR100 and City of Flagler Beach City Limits extending approximately 1.5+/- mi.		
CURRENT FUTURE LAND USE	Agricultural/Timberlands (1 unit / 5 acres)		
PROPOSED FUTURE LAND USE	Mixed Use - Low Intensity (711.60+/-ac.) 1 to 7.0 residential units per gross acre. FAR of .2. Residential Use area – 15% min./70% max. Retail/Office area - 15% min./50% max. Open Space - 25% min.		
	Mixed Use - High Intensity (112.53+/-ac.)		
	 3.1 to 10.0 residential units per gross acre. FAR of .4. Residential Use area – 25% min./60% max. Retail/Office area - 25% min./50% max. Open Space - 25% min. 		

Planning Division Staff Report

ZONING: UNDERLYING	Planned Unit Development
PROPOSED ZONING	Planned Unit Development

2. BACKGROUND AND HISTORY

In 2005, a Large Scale Land Use Amendment (LUA) and rezoning for the property under consideration was accomplished. The LUA changed the Future Land Use Map (FLUM) from Agriculture and Timberland to Conservation, Mixed Use High Intensity, Medium/High Density and Agriculture. The rezoning to Planned Unit Development (PUD) changed the existing zoning from Agriculture (AC), Conservation (CN), and General Commercial (C-2) to Planned Unit development. The companion Development Agreement included the following entitlements:

- I. Residential units 453 (units 150 of 453 units may be multi-family residential units).
- II. Retail/office 230,694 sq. ft.
- III. 18-hole golf course.
- IV. Boat ramp site (Public)
- V. Fire station site

The applicant, under separate application (Application #3175), seeks to restate and rename the existing PUD (The Gardens) and associated Development Agreement. The land use amendment, if approved, coupled with the restated PUD Development Agreement will allow:

- I. Single-family units 541 (units may include 250 units designated as an assisted living facility).
- II. Multi-family residential units 3,425 (units may include 250 units designated as an assisted living facility).
- III. Office 150,000 sq. ft.
- IV. Retail 350,000 sq. ft.
- V. Marina + ancillary facilities 10,000 sq. ft.
- VI. Boat slips (wet & dry storage) 250 slips

The Future Land Use designations, Zoning categories and existing land use patterns of the subject property and adjacent properties within one-half mile of the site are listed below:

	Existing Land Uses	Future Land Use Designation	ZONING Classification
Subject Property	Undeveloped	Agriculture & Timberlands Agriculture & Timberlands Agriculture & Timberlands	PUD
North	Shopping Ctr. Storage Undeveloped SFR	1. Commercial (PC) 2. Commercial (FB) 3. Low density (FB) 4. Medium Density (FB) 5. Other Public Facilities (FB)	1. COM-2 2. Highway Commercial 3. SFR, Conservation 4. Reserve, SFR 5. Light Industrial
South	Undeveloped	Agriculture & Timberlands Conservation	PUD** AC-2
East	Undeveloped	1. Commercial	1. Highway Commercial

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		Medium Density Conservation	2. Reserve 3.Preservation/Conservation
West	Undeveloped	Conservation	PUD**

^{**} PUD - Hammock Beach River Club

3. CONCLUSION OF FINDINGS:

Land Use Amendment: Not in Compliance; The project, as proposed, fails to meet relevant Objectives and Policies of the adopted Flagler County Comprehensive Plan.

A. Basis of Findings:

- 1. Staff Evaluation of applicant's "compliance" responses.
- 2. Staff Assessment of relevant Flagler County Comprehensive Plan Objectives and Policies.

Nature of Objection:

The proposed FLUM amendment raises bona fide concerns related to:

- 1. Lack of supportive data and analysis, excepting a Traffic Analysis, which staff recommends be subject to peer review.
- 2. Incompatibility with current Future Land Use Maps: Flagler County, City of Palm Coast, City of Flagler Beach.
- 3. Lack of qualified assurances of "no negative impact" to public facilities and services (e.g. level of service, staffing, mutual aid services).

B. Compliance Parameters:

- Flagler County Land Development Code "Definitions"
 - Comprehensive plan: A plan designed and adopted to guide development in Flagler County, as required by Chapter 163, Florida Statutes.
- ii. F.S. 163.3184(3)(b)1. Speaks to Data and Analysis to support the legislative action. The proposed amendment fails to meet the required data requirement including the following essentials:
 - 1. Available alternative sites.
 - 2. Identification of county wide demand for the proposed designation.
 - 3. The unavailability of sites to meet the demand.
 - 4. Relationship of the proposed use to existing designations.
 - 5. Applicable adopted County Land Use Plan policies.
- 6. Applicable policies of adjacent planning jurisdictions. (i.e. Flagler Beach and Palm Coast).
- 7. Changed conditions that justify the proposed change from the current designation to the proposed designation(s).

PART TWO:

This section evaluates the consistency findings provided by the applicant, justifying compliance with the stated Goals, Objectives and Policies of the Flagler County Comprehensive Plan. Each applicant justification is followed by a Staff response.

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Comprehensive Plan Item:

Consistency with Plan Goals, Policies and Objectives of the Flagler County 4.1 Comprehensive Plan

Applicant's Justification:

The proposed amendment is consistent with several of the Goals, Policies and Objectives of the Comprehensive Plan, as outlined below. This amendment will allow development with uses that are consistent and compatible with the surrounding area.

Staff Comment:

- 1. The Community Planning Act defines Compatibility as "a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition."
 - No data or analysis to support that the proposed uses, and the built environment, over time, will not unduly negatively impact the surrounding community as it relates to quality of life, stability of development, and effect on community facilities and infrastructure.
- 2. The Flagler County Comprehensive Plan identifies ten (10) "Study Areas" each with specific goals, objectives and policies to assist local leadership in making decisions that are appropriate for each individual study area. The area of Flagler County specific to Application #3174 lies within Coastal Area 3 (Bulow Creek). This geographic area is programmed for low-density development apart from a pocket of Mixed Use – High Intensity on SR100.
 - The proposed Land Use Amendment is not consistent or compatible with Agricultural/Timberlands FLUM designation or the intended manner of low-density development identified for Coastal Area 3.

The current Flagler County FLUM for the area under consideration indicates 8+/-acres designated Mixed Use - High Intensity west of John Anderson Hwy (See below NOTE). The applicant proposes to change the FLUM designation of 99+/- additional acres from Agriculture and Timberlands to Mixed Use – High Intensity (i.e. 13+/- ac. east of John Anderson & 86+/- acres west of John Anderson Hwy), a 468% increase in land area designated Mixed Use – High Intensity.

NOTE: Application #3174's Present FLUM, as shown on Pg. 15, indicates 16+/- acres. Flagler County FLUM, as shown in the Flagler County Comprehensive Plan FLUM and Property Appraiser website, indicates an estimated 8+/- acres. Flagler County FLUM used for calculation purposes.)

Comprehensive Plan Item:

Applicant's Justification:

GOAL A.1: Flagler County shall strive to achieve orderly, harmonious and judicious use of the land through a distribution of compatible land uses, fostering the viability of new and existing communities while maintaining the agricultural pursuits of the County, and recognizing and preserving the integrity of the natural environment,

This project will provide a mixture of residential opportunities for Flagler County residents that will be provided in an orderly and harmonious fashion. The proposed layout of the residential areas of the Project will include single-family, multifamily, and age restricted residential opportunities that will draw both residents and visitors alike to the area to work, live, and play. This new community will draw an increased tax base to the County and provide for newer and more efficient residences.

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Staff Comment:

No evidence to support the assertion that the proposed project, as outlined, is consistent with Goal A.1 or that the project advances the judicious use of the land.

Comprehensive Plan Item:

Policy A.5.2.2 Flagler County shall develop new regulations to encourage clustering of residential units and preservation of agricultural and natural resources such that agricultural resources are protected in the western area of Flagler County (area west of U.S. Highway 1). The regulations are intended to prevent a checker-board pattern of 5acre home sites allowable under the Minor Rural Subdivision provisions.

Applicant's Justification:

This project uses smart design and clustering of residential units to promote open space and limit the sprawl of 5-acre home sites within the county by creating a cohesive community of residences that brings individuals together in an intelligent design.

Staff Comment:

N/A – This section of the Comprehensive Plan speaks to Rural and Agricultural Protection in the Western Area of Flagler County. The applicant's reference to above Policy (A.5.2.2) is not consistent with the verbiage associated with Policy A.5.2.2 as stated on Page A-54 of the Future Land Use Element.

This Policy is specific to the section of the Comprehensive Plan that speaks to Rural and Agricultural Protection specific to the rural and agricultural lifestyle in the Western Area of Flagler County lying west of U.S. Highway 1.

Comprehensive Plan Item:

Objective F.1.11 Flagler County shall promote the protection of natural area reservations to lessen the adverse effects which adjacent developments might have on the managed conservation areas through implementation of various Land Development Regulations (LDRs) including transfer of development rights, clustering, Planned Unit Development (PUD) standards, permitting, and wetlands protection.

Applicant's Justification:

This project uses clustering and the planned development standards to promote a development that creates new and efficient development within the County without sacrificing the integrity of its natural areas. The use of clustering for residential units will create greater open space and natural views for residents and visitors, and the project will minimize wetland impacts on the Property.

Staff Comment:

See Staff Comment above - Policy A.5.2.2

No data provided to demonstrate how the proposed development furthers efficient development. The proposed area(s) of development, the form and arrangement are the result of regulations that protect resource encroachment (i.e. wetlands, wells, cultural elements, etc.).

Although the manner of development per se is not relevant to the LUA application, the land plan does not demonstrate cluster development in the true sense of the term. This land planning practice is generally employed to honor resourceful natural areas, man-made created features, and/or areas possessing unique qualities, absent regulations and mitigation opportunities.

Comprehensive Plan Item:

Planning Division Staff Report Page 5 | 18 Policy G.1.2.1 Flagler County will strive to limit residential tax burdens while funding facilities and services needed for economic development.

Applicant's Justification:

This project will decrease the overall residential tax burden by promoting more residents to live within Flagler County. The host of residential options provided by the project will result in greater ad valorem tax revenue for the city and will limit the overall tax burden on other residents. The project will also promote economic development through strategically placed commercial opportunities near the entrance of the Property, which will draw residents and visitors to the commercial area.

Staff Comment:

No evidence or data provided to substantiate how and to what degree, if any, overall residential taxes will be affected. No measurable evidence to demonstrate the impact/savings on the cost of services, over time. The above statement reads the project will result in greater ad valorem tax revenue for the "city", clarification needed.

Comprehensive Plan Item:

Policy G.1.2.6: Flagler County shall provide for mixed-use development in areas where such development would be appropriate and where it would help to provide accessible services and jobs for citizens.

Applicant's Justification:

This project is inclusive of a mixed-use development, as discussed above. The placement of commercial resources and opportunities in proximity to the planned residential areas will result in accessible services to residents of the community, and provide for job opportunities within a close distance of the new residents' homes.

Staff Comment:

No evidence to support the area in question is appropriate for mixed-use development, as proposed, specifically as it relates to the significant increase in Mixed Use - High Intensity (468%) as currently depicted on the Flagler County FLUM.

Comprehensive Plan Item:

Policy G.1.2.7 Flagler County shall continue to coordinate economic development efforts with all cities and other applicable agencies within the County and throughout the Northeast Florida region.

Applicant's Justification:

This project highlights the success of intergovernmental cooperation through the use of the Utility and Service agreement entered into by Flagler County and the City of Flagler Beach for the City of Flagler Beach to provide utility service to the future development.

Staff Comment:

- 1. The justification response does not speak to G.1.2.7 or provide measurable evidence that the project promotes economic development.
- 2. Utilities Commitment on the part of the City of Flagler Beach to provide utility services is explicitly dependent upon available capacity as it relates to the Utility and Service Agreement. No data provided to cross reference available capacity with the "absorption schedule" and water and sewer calculations provided.

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Comprehensive Plan Item:

Objective G.4.1: Flagler County shall provide land use regulations and planning tools to allow for geographically distributed land uses and development opportunities to accommodate economic opportunities throughout the County over the next planning cycle.

Applicant's Justification:

This project provides an opportunity for increased growth and development in a currently underutilized area of the County. By providing both residential and commercial business opportunities within the project, the Applicant believes that the project will be a catalyst for growth within the area that will provide greater economic opportunities to the County and will benefit both residents and visitors to the area.

Staff Comment:

There is no evidence to support the proposed project and the additional area designated Mixed Use – High Intensity is geographically, appropriately situated, or such demand is substantiated by reliable data. The project, as proposed, alters the dynamics of the area, the character of the community and vision of the community as presently adopted.

The LUA proposes to change 12+/-% of the land area (99+/- ac.) from Agriculture and Timberland to Mixed Use- High Intensity, an area programmed and guided to maintain a low density residential/low intensity commercial development.

The assertion that the project will be a catalyst for growth within the area is speculative.

Comprehensive Plan Item:

Goal I'D: Flagler County will develop and maintain intergovernmental coordination mechanisms necessary to achieve consistency among local, county and regional plans and policies and coordinate all development activities in order to improve delivery of services, enhance the quality of life and protect the natural environment.

Applicant's Justification:

This project highlights the success of intergovernmental cooperation through the use of the Utility and Service agreement entered into by Flagler County and the City of Flagler Beach for the City of Flagler Beach to provide utility service to the future development.

Staff Comment:

See Staff Comment: Economic Development Element Policy G.1.2.7 above.

Comprehensive Plan Item:

4.2 Consistency with the Urban Sprawl Rule

Section 163.3177(6)(a)(9)(b), Florida Statutes, provides that plan amendments shall be determined to discourage the proliferation of urban sprawl if they incorporate a development pattern or urban form that achieves four or more of the following:

Staff Comment:

Note: Reviewer stipulates that the Rule is not specific to Application #3174

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(I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

Applicant's Justification:

<u>Response</u>: The Project will minimize wetland impacts and provide upland buffers within the area and conserve environmentally significant property within the development.

Staff Comment:

The applicant response as it relates to wetland upland buffers reads to suggest that such buffers are a surrendering of developable lands that could otherwise be improved. Upland buffers are required as outlined in Section 6.02.09 of the Flagler County Land Development Code. It does not appear that the applicant is volunteering to contribute additional upland areas other than, as required.

1. Economic growth - No measurable, supportive data provided to determine whether economic development will impose adverse impact to natural resources and/or ecosystems. The area designated to commercial use does not appear to be in the flood plain.

2. Natural resources -

Well fields – Additional well fields will be required to provide service given the anticipated increase in level of service demand (assuming the City of Flagler Beach agrees to provide utility service/no assurance/no agreement currently). Potential sites are scarce, soil suitability and as to water resources, development should be restricted.

The proposed project is situated in an area designated in the Comprehensive Plan, a Priority Water Resource Caution Area. The project's estimated residential population at 9,518 is 775% greater than the previously approved project (9,518 vs 1,087). This increase coupled with the proposed increase in commercial floor area of some 122% (510,000 sq. ft. vs 230,000 sq. ft.) including a 250 slip marina does not side with a reasonable show of safeguarding this priority resource.



Comprehensive Plan Item:

 Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

Applicant's Justification:

<u>Response</u>: The Property is located in an area where public infrastructure and services are in place, and utility service is provided through the existing Utility Service Agreement, thereby promoting the efficient and cost-effective provision of such infrastructure and services.

Staff Comment:

<u>Property location</u> – Consistent with policy.

Service – The current Utility Service Agreement with Flagler County provides no assurance, as structured.

Service Capability – Absorption Rate Schedule should be cross referenced with the City of Flagler Beach Capital Improvements Schedule thru fiscal year 2022-2023 shown below.

PROJECT	Total Project Cost by Fund	Actuals FY18-19	Actuals FY19-20	Actuals FY20-21
Water Treatment Plant Expansion/Design	\$50,000	\$50,000		
Water treatment Plant Expansion/Construction	\$1,000,000		\$500,000	\$500,000
Phase III Wastewater Treatment Plant	\$600,000	\$500,000	\$500,000	
Wastewater Treatment Plant Phase IV	\$4,500,000	\$1,500,000	\$1,500,000	\$1,500,000

It is pre-mature to consider the land use amendment as it relates to utility service given the unknown commitment or ability of the City of Flagler Beach to provide service coupled with the lack of a document that attests to cost bearing and service availability timelines.

Comprehensive Plan Item:

Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

Applicant's Justification:

The amendment allows a higher residential density than allowed under Response: current land use designation and will allow for a mix of residential uses including single family, multi-family, and age-restricted housing options. The Project will include well-lit, walkable streets, multi-use trails, and sidewalks that will promote a multimodal transportation system as individuals, drive, walk, and bike around the neighborhood and associated amenities, or to nearby commercial opportunities.

Staff Comment:

This standard speaks to land planning best practices. Implementation fails to measure the suitability of a development's worthiness in terms of benefitting the public welfare, quality of life, and furthering the public interest.

Comprehensive Plan Item:

(IV) Promotes conservation of water and energy.

Applicant's Justification:

The clustering of residential units adjacent to commercial development allows for residents to walk, bike or take a short drive to commercial development which minimizes energy consumption. The project conserves environmentally sensitive wetlands on the Property and provides on-site stormwater treatment, retention and detention and groundwater recharge, which promotes water conservation.

Staff Comment:

Planning Division Staff Report Page 9 | 18 See above comments as it relates to "clustering." The proposed development is situated in a designated Priority Water Resource Caution Area. Little or no regard has been demonstrated to promote conservation of resources given the significant increase in residential entitlements requested above the previously approved PUD.

Energy consumption will increase exponentially. The greater the population the greater the demand and consumption as it relates to energy, water.

No data provided to indicate or demonstrate that the project conserves environmentally sensitive wetlands beyond those required to be protected by virtue of regulatory requirement.

Comprehensive Plan Item:

 (V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.

Applicant's Justification:

Response: N/A

Staff Comment:

Comprehensive Plan Item is not relevant to the site in question.

Comprehensive Plan Item

(VI) Preserves open space and natural lands and provides for public open space and recreation needs.

Applicant's Justification:

<u>Response</u>: The proposed amendment will include open space areas of the development to help create a sense of place, and will also provide recreational amenities for residents.

Staff Comment:

No data provided to demonstrate an area(s) set aside to provide public open space and/or contribute to the recreation needs of the community. No evidence to support the way open space will help create a sense of place; to mean special and/or unique.

Comprehensive Plan Item:

(VII) Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.

Applicant's Justification:

<u>Response</u>: The proposed overall project includes a section of High Intensity Mixed-Use development near the State Road 100 entrance of the Property, which is already planned for High Intensity Mixed Use under the Future Land Use element of the comprehensive plan. This area will provide a balance of commercial opportunities to service the nearby and adjacent planned residential developments.

Staff Comment:

No data (i.e. market studies, demographics, etc.) provided to demonstrate or project balance of commercial opportunities in, and for the area (510,000 sq. ft.).

Comprehensive Plan Item:

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(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.

Applicant's Justification:

The Project rehabilitates a former proposed residential development that Response: was unable to be completed due to financial difficulties - the new design includes clustering of homes to promote open space and limit urban sprawl.

The proposed amendment promotes a development pattern and urban form that achieves seven of the preceding eight general policies. Accordingly, the proposed amendment exceeds the urban sprawl standards set forth in Section 163.3177(6)(a)(9)(b), Florida Statutes.

Staff Comment:

The project as proposed does not rehabilitate the former proposed development. It dramatically alters and transforms the previously approved PUD in character, scale and nature.

Comprehensive Plan Item:

4.3 Land Use Compatibility Analysis

Applicant's Justification:

The proposed amendment seeks to amend an 825 +/- acre portion of the Flagler County FLU Map to a mixture of Mixed Use - High Intensity and Mixed Use - Low Intensity. The proposed amendment will not negatively alter the character that exists in the area at the present time. The amendment is intended to allow for improved planning and coordination for development of the Property. The primary uses of the Property will be consistent with the existing uses in the surrounding area, including but not limited to: commercial offices, restaurants, retail establishments, and single and multi-family residences.

The uses contemplated by this amendment and permitted through the future rezoning of the Property are consistent with the existing development in the vicinity of the Property. As further detailed in Section 5 below, the proposed amendment allows the development of the Property in a manner consistent with the Comprehensive Plan. For an overview of the FLU consistency, please refer to the existing and proposed FLU maps attached as Exhibits "F" and "G", respectively.

Staff Evaluation:

The applicant fails to indicate that the proposed amendment affects land currently designated Agriculture/Timberland on the FLUM and the purpose and intent of the designation.

Applicant:

The proposed amendment will not negatively alter the character that exists in the area at the present time.

Staff Evaluation:

The applicant provides no evidence to support the claim that the proposed amendment will not alter the character that exists in the area at this time (area in question not defined by applicant). Notwithstanding commercial development that serves the community on SR100, the project is diametrically in conflict with the present form of development in the immediate and surrounding area particularly as it relates to the area lying on the westerly side of John Anderson.

Applicant:

Planning Division Staff Report Page 11 | 18 The amendment is intended to allow for improved planning and coordination for development of the property.

Staff Evaluation:

To assert that the project "is intended to allow for improved planning" is conjecture. The context for improved planning is not well defined. The development agenda lacks supportive data, appears transformational and out of character with surrounding community values and lifestyle.

Applicant:

The primary uses of the Property will be consistent with the existing uses in the surrounding area, including but not limited to commercial offices, restaurants, retail establishments, and single family and multi-family residences.

Staff Evaluation:

Although uses may be similar in nature, the best that can be discerned from the Concept Plan is the intensity of uses proposed for areas on the westerly and easterly side of the project are significantly out of character with the surrounding area, and as delineated for future development.

Applicant:

The uses contemplated by this amendment and permitted through the future rezoning of the Property are consistent with the existing development in the vicinity of the Property. As

Staff Evaluation:

Uses - are consistent; intensity, suitability, consideration of relationship to surrounding community and manner of development, development history, highly inconsistent.

Rezoning – the area in question is currently shown PUD on the zoning map. Rezoning?

5. Conclusion

Applicant's Justification:

The proposed amendment is consistent with the Flagler County Comprehensive Plan as detailed herein. The amendment will permit the efficient integration of planning and management of the Property. The proposed amendment will ensure that the subsequent rezoning of the Property will not include any inconsistent uses with those currently anticipated throughout this area. The amendment will allow multi-use development in an appropriate location where it will be consistent with surrounding uses.

Staff Comment:

- 1. Staff finds the proposed amendment not in compliance with the adopted Flagler County Comprehensive Plan predicated upon the evaluation and application of the stated Objectives and Policies cited herein.
- 2. The relevance, the built environment of the project, is highly inconsistent with the intensity and character of the surrounding area particularly for the area(s) designated Mixed Use – High Intensity.
- 3. This application appears disengaged from recognizing the dichotomy between the stated consistency of uses versus the proposed entitlements outlined in the associated PUD Development Agreement.

PART THREE

This section provides a comprehensive review of Objectives and Policies of Flagler County's Comprehensive Plan prepared by City of Flagler Beach Staff. Comments are specific to Objectives and

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Policies determined to be relevant to the land use amendment request and evaluated in terms of compliance or non-compliance.

FUTURE LAND USE ELEMENT:

Comprehensive Plan Item:

Policy A.1.2.3 Expansion and replacement of existing land uses which are incompatible with the Future Land Use Element and Map plan shall be prohibited.

Staff Comment:

Application #3174 proposes to significantly expand and replace a previously approved PUD determined at the time of adoption to be consistent and compatible with the surrounding communities.

Justification for what may be termed a radical increase in residential and non-residential entitlements lacks a factual basis to demonstrate a need, a demand, or consistency with the development pattern of the surrounding area.

To replace and/or expand the current Future Land Use Map designation and entitlements associated with the prior PUD zoning land use(s) contravenes **Policy A.1.2.3**. and specifically, any replacement and/or expansion of the current FLUM or Map plan shall be prohibited.

Comprehensive Plan Item:

Policy A.1.4.1: During the review of requests for plan amendments, topography, vegetation, wildlife habitat, flood hazard, the 100-year flood plain, and soils for the areas to be amended will be analyzed and specific findings made as part of the plan amendment process.

Staff Comment:

No analysis and/or analysis provided; Map(s) only

Comprehensive Plan Item:

PolicyA.1.5.1: Higher densities and intensities of development shall be located within areas where public facilities are available

Staff Comment:

No supporting data provided to indicate the availability and/or capability to provide utilities.

Comprehensive Plan Item:

Policy A.1.6.4: The size, location, and function of shopping centers should be related to the population and market area served.

Staff Comment:

No data to support the need/ demand for the proposed doubling of non-residential entitlements granted to the previously approved PUD.

Comprehensive Plan Justification Item:

Policy A.1.6.8: Mixed land use areas shall be located as shown on the "Future Land Use Map" and as amendments are made to that Map, buffers, density transitions, and other techniques will be utilized to ensure that incompatible land use situations will not be created.

Staff Comment:

Consistent – **NOTE:** Mixed Use High Intensity area only.

Comprehensive Plan Item

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Policy A.2.1.2: Urban development shall be limited to areas which have the existing or planned capacity infrastructure to service new population or commerce activities. The timing and provisions of urban services to the Western Areas of Flagler County shall be coordinated with other local governments, private utility providers and quasi-governmental entities (e.g. Community Development Districts).

Staff Comment:

The area proximate to the proposed "urban development" project currently does not possess the infrastructure to service residential and commercial activities. The City of Flagler Beach utility capacity is marginal. The 5-Year Capital Improvement Plan does not include capacity expansion.

Comprehensive Plan Item

Policy A.2.1.3: Flagler County may allow the development of new urban development when central water and sewer systems are available concurrent with the development as determined through the Concurrency Management System of the respective local governments and the applicable interlocal agreements and rural/farming preservation policies contained in this Comprehensive Plan.

Staff Comment:

No evidence to support the availability, timing and/or phasing of water and sewer concurrent with the time of development.

Comprehensive Plan Item

Policy A.2.1.4: Flagler County shall regulate new development in a manner which ensures that the Level of Service (LOS) of the transportation system intended to serve those urban service areas are not exceeded or Increases in density will require that the developer provide appropriate mitigation that includes, but is not limited to, provision of alternative Flagler County Comprehensive Plan 2010-2035 Page A-26 July 6, 2011 A-Future Land Use transportation systems, additional infrastructure, and/or fees to pay for the impacts of the proposed increase in density.

Staff Comment:

The rezoning associated with the FLUM amendment significantly increases the previously approved density of the project. It is recommended that a peer review be performed as it relates to the Transportation Analysis submitted with the Application #3174.

Comprehensive Plan Item

<u>Study Areas</u> (From - Comprehensive Plan Pg. A-24)

The following goals, objectives, and policies reflect specific recommendations pertaining to similar geographic areas of Flagler County (see Map A.3). These goals, objectives, and policies are the result of the visioning efforts of the County's Future Committee, the directions from the Flagler County Board of County Commissioners' Strategic Plan for 2010 to 2015, and the application of the Evaluation and Appraisal Report (EAR) recommendations. These are intended to address the characteristics of the different areas of Flagler County and to aid local leaders in making decisions that are appropriate for that study area.

NOTE: The proposed project is situated within Study Area - Coastal Area 3 (Bulow Creek). Following is an excerpt that defines Coastal Area 3 followed by relevant Objectives and Policies related to the proposed project.

Coastal Area 3 (Bulow Creek): This area contains approximately 7,263 acres (see Map A.6). The boundaries of the area are: SR 100 (Moody Blvd.) on the north; the Intracoastal Waterway to the east; Volusia County to the south; and I-95 to the west. One of the critical elements is the protection of the rural and natural resources that comprise the Bulow coastal study are by ensuring compatible uses are developed in a manner that preserve existing natural resources and ensure adequate services for the low density residential/low intensity commercial areas identified on the Future Land Use Map.

Staff Comment:

The proposed project is not compliant with the guiding level of development associated for the Coastal Area 3 region to protect water resources.

Comprehensive Plan Item:

Policy A.2.5.3: By 2015, Flagler County shall complete a detailed transportation analysis to determine the future conditions of Old Kings Road and John Anderson Highway to determine if improvements to add capacity and/or address safety issues are warranted.

Staff Comment:

No evidence of a transportation analysis by Flagler County to date.

TRANSPORTATION ELEMENT

Comprehensive Plan Item:

Policy B.1.4.4: Flagler County shall establish right-of-way protection policies in the Land Development Regulations (LDRs) to protect the existing and future roadway network (as shown on the Future Traffic Circulation Map) from development and building encroachments.

Staff Comment: ROW width for John Anderson is eighty (80) feet. Future capacity and ability to maintain adequate level of service and space to accommodate proposed improvements within the ROW is not graphically represented.

As indicated in the below graphic, and as depicted in the 2035 Comprehensive Plan Transportation Element, John Anderson Hwy is identified to necessitate a 150' right-of-way width. The LUA and accompanying PUD DA do not appear to address right-of-way dedication along the approximately 1.2+/- mile corridor of adjacent property under the applicant's control.

	John An	derson Hwy		
	2015	Current ROW	2035	ROW NEEDS
# Lanes	2		4	
Level of Service	В	80'		??
Peak Hour Level of	В		D	
Service				

Comprehensive Plan Item:

Policy B.1.5.10: Flagler County shall minimize additional impacts on identified evacuation routes within the coastal areas of the County through appropriate land use controls and processes incorporated into the County's Land Development Regulations (LDRs).

Staff Comment: The LUA amendment proposes to increase the land area currently shown as Mixed Use – High Intensity by a significant margin on the westerly side of John Anderson Hwy from 16+/- acres to 91+/- acres (468%) and proposing to establish an area of 13+/- acres on the easterly side of John Anderson Hwy.

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The proposed residential entitlements associated with the PUD DA do not align with Policy B.1.5.10, are not characteristic of the surrounding community, and as structured, appears indifferent with taking measures to reasonably enhance the safety and welfare of current and future residents dependent upon SR100 and/or A-1-A for evacuation purposes.

Comprehensive Plan Item:

Objective B.41.6: Flagler County shall review all development proposals, DRI applications, land use classification amendment requests, subdivision plats, and commercial construction site plans in order to require that they are consistent with and help implement the County's Transportation Element.

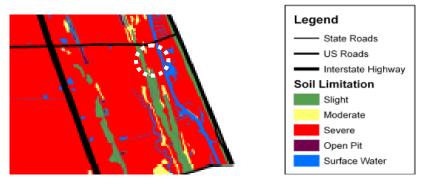
Staff Comment: No indication of whether this Objective has been accomplished.

INFRASTRUCTURE ELEMENT

Comprehensive Plan Item:

Objective D.1.5: Utilization of septic tanks shall be limited to rural areas with suitable soils and distribution at low development densities, unless existing site conditions can be modified so that the tank and drainfield designs and operation comply with State standards.

Staff Comment: Septic tanks – It is purported that septic tanks will be employed during the early stages of development (no cap established). As the below Comprehensive Plan Map indicates the soils in the area of the project are generally not appropriate for septic tanks. Soil limitations are classified as Severe. To allow or promote such facilities in this area is not consistent with the established Objectives and Policies of the Comprehensive Plan.



Comprehensive Plan Item:

Policy D.1.8.1: Future growth at urban densities or intensities will be encouraged only in areas which have sufficient existing or planned capacity on central water and wastewater systems and are available for connecting. Areas of planned capacity will be interpreted as those areas where improvements are scheduled in the Capital Improvements Program, or within a designated utility service area.

Staff Comment: Previously addressed; City of Flagler Beach CIP does not indicate planned capacity to accommodate the projected population.

Comprehensive Plan Item:

Policy D.1.8.2: Flagler County shall continue to require that new development in the area east of US Highway 1 be connected to central water and wastewater systems. The waiver of this requirement to permit the use of septic tanks or wells shall only be considered where the density, environmental conditions, and fiscal commitments so justify.

Staff Comment: See previous responses above

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Comprehensive Plan Item:

Policy D.3.1.5: Flagler County shall not approve any applications for amendment to the Future Land Use Map or Official Zoning Map unless the applicant demonstrates that the provider of potable water that serves the subject property has the ability to access a safe, sufficient supply of raw water in order to serve the potential development feasible under the proposed land use and/or zoning standard. Flagler County shall use the County's adopted Water Supply Facilities Work Plan and the respective Plan for the provider of potable water, as well as Consumptive Use Permits issued by the St. Johns River Water Management District (SJRWMD) to determine if there is adequate supply. Flagler County shall determine the maximum intensity of a proposed amendment by the application of the zoning standards in the Land Development Regulations (LDRs) if there is not a specific plan, such as a Planned Unit Development (PUD) or Development of Regional Impact (DRI) associated with the amendment request.

Staff Comment: See previous responses above

COASTAL MANAGEMENT ELEMENT

Comprehensive Plan Item:

Policy E.1.2.2: Environmental surveys shall be required for developments of greater than twenty-five (25) residential dwelling units or Planned Unit Developments (PUDs). The focus of these surveys shall be jurisdictional wetland boundaries; natural vegetative communities; the presence of existing wildlife habitat and/or the presence of threatened, endangered, or species of special concern; and the presence of index trees as defined in Flagler County's Land Development Regulations (LDRs).

Staff Comment: Inconclusive of whether Policy E.1.2.2 is in compliance with the associated PUD application #3175.

Comprehensive Plan Item:

Policy E.1.3.18: Flagler County will restrict development proposals which could adversely impact the Coastal Area, both individually and cumulatively.

Staff Comment: The proposed project lies within the Coastal High Hazard Area. Intensity of development should be limited to adhere to the constraints and concerns associated with storm events, flooding, evacuation, and adding to the cumulative effect with other development in the area.

Comprehensive Plan Item:

Policy E.2.3.8: Flagler County shall discourage the location of new adult living facilities, nursing homes, and other similar medical facilities that serve Flagler County's special needs population within the Coastal High Hazard Area (CHHA).

Staff Comment: The proposed project identifies reserving 250 residential units for assisted living facilities.

Comprehensive Plan Item:

Policy E.2.3.9: Within the Coastal High Hazard Area (CHHA), Flagler County will not make infrastructure improvements to accommodate development with more density or intensity than allowed by the Comprehensive Plan's Future Land Use Map.

Staff Comment: The proposed project build-out of residential entitlements, if approved, is dramatically greater than the current FLUM designation parameters and lies within the CHHA.

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Comprehensive Plan Item:

Policy E.2.4.5: Flagler County shall not approve Comprehensive Plan amendments that increase the residential density on the Future Land Use Map within the Coastal High Hazard Area (CHHA), unless consistent with Policy E2.1.1 (NA).

Staff Comment: The proposed development lies within the CHHA and Category 1 Evac Zone. The projected population for the requested entitlements (3,966 x 2.4 = 9,518) is greater than almost nine (9) times the previously approved PUD (453 d.u's x 2.4 = 1,087).

Comprehensive Plan Item:

Policy E.2.4.8: Amendments to the Comprehensive Plan in the Coastal Area shall not be approved which will result in an increase in hurricane evacuation times without mitigation of the adverse impact to evacuation times.

Staff Comment: No data provided.

Comprehensive Plan Item:

Policy E.2.4.9: Consistent with the adopted Future Land Use Map, any proposed development in a hurricane evacuation zone which is anticipated to utilize ten percent (10%) or more of an identified hurricane evacuation route's Level of Service (LOS) E hourly directional maximum service volume will be identified as having an adverse regional impact. The volume is based on the Florida Department of Transportation's (FDOT's) Generalized Hour/Peak Direction Level of Service Maximum Volumes as presented in the Florida Highway Systems Manual. These adverse impacts shall be mitigated.

Staff Comment: No data provided.

ECONOMIC DEVELOPMENT ELEMENT

Comprehensive Plan Item:

Policy G.2.1.4: Flagler County shall strive to reduce economic dependency on residential housing development and seek to expand other opportunities that diversify and support economic development within Flagler County.

Staff Comment: No data provided to support the assertion that the project may serve as a catalyst to further economic development. Clearly, as studies indicate, residential development, in and of itself, does not promote diversification of an economic base without signature infrastructure (e.g., gir, rail, port).

NOTE: Additional comments to be provided pending further submittals.

The Gardens FLUM/PUD Planning Division Staff Report Page 18 | 18



MEMORANDUM



Flagler Beach, Florida 32136 386.517.2023

Date: June 10, 2019

To: Larry Newsom, City Manager

From: Chief Matthew P. Doughney/

Subject: Gardens Development - Police Input

Based on my review of the provided documents, I respectfully submit the following input for Law Enforcement services;

The addition of 4,000 new homes over a twenty-five (25) year period will bring an estimated 10,000 people to our area. Whether "The Gardens" development is annexed into our City or not, the impact of this development to our City will adversely affect Law Enforcement services from the Flagler Beach Police Department. As this newly proposed development is strictly zoned residential, my public safety concerns for Law Enforcement services are as follows;

- 1. The ability for Law Enforcement to respond in a timely manner to priority calls for service (Domestic Violence, Burglary Alarms, Weapons Calls, Baker Acts, Suspicious Persons, Missing Children/Missing Adults, Medical Alerts, Traffic Crashes, etc.)
- 2. Quality of life concerns of the residents in the development and on John Anderson Highway; parking issues, code issues, traffic concerns (speeding, stop signs violations, noise) etc.
- 3. John Anderson Highway is currently a two (2) lane roadway that will not be able to handle both the current volume of traffic and the additional vehicular traffic from Seaside Landings and The Gardens.

The close proximity of these two (2) developments to our City will heavily impact Law Enforcement services, as these new residents will travel our roadways, eat at our restaurants, shop at our local stores and enjoy our scenic Beach. Thanks in advance for your time and attention in this matter of mutual concern.

Cc: Larry Torino, City Planner Captain Blanchette, Police Department



City of Flagler Beach Fire Department

To: Larry Torino, City Planner

From: Robert Pace, Fire Chief

RE: "The Gardens" Review Comments

As requested, kindly find below, comments specific to *Flagler County Application #3175* regarding "The Gardens" Planned Unit Development (PUD) and more specifically, the associated Development Agreement.

A. General Comments:

- 1. All comments and responses included in this report are predicated upon the information provided to this office.
- 2. Public Safety, in this instance Emergency and Fire Service, will be impacted by virtue of the current Mutual Aid Agreement as it relates to first responders. This agreement is structured such that FBFD would be the primary response for this development.
- 3. The Preliminary Absorption Schedule included with the documents indicates a total build-out timeframe of 25 years. The project is broken down into 5 phases. The ongoing impact to the FBFD is summarized based on the Absorption Schedule.

B. Specific Comments:

- 1. At the proposed intensity of:
 - 3,966 dwelling units, a portion of which may be dedicated to assisted living facilities, and
 - ii. the projected population of the project at build out of nearing ten thousand (10,000) residents, triples the number of citizens FBFD currently protects based upon service area.
- 2. A gated community will affect first responder response time.

- 3. The conceptual site plan shows lengthy residential roadways leading to cul-desacs/dead ends that will affect response times.
- 4. Call volume for fire rescue will be expected to greatly increase as it appears The Gardens community is marketing to residents of age 55 and older.
- 5. In the event of a hurricane/natural disaster, evacuation procedures for the development would be an issue that would need to be addressed.
- 6. Could county public transportation accomplish the evacuation needs for several thousand people?
- 7. Based upon the projected population it can reasonably presumed that the number of special needs residents will increase exponentially requiring advanced care and first responder call outs.
- 8. Building height The proposed maximum height at twelve stories (12) pose special hazards.

C. Development Phasing Comments

Tier 1 - [Phases I & II]

- Phases I & II would represent 1,200 new residential / commercial structures in the area
- Call volume would be predicted to increase by approximately 400 to 500 calls annually
- -Although I would consider this to be feasible with the current staff/equipment in place there would be additional cost incurred
- This call increase would increase maintenance costs for the units, additional supplies, and equipment stocked on each piece of apparatus

Tier 2- [Phase III]

- At this point, the 3 phases would represent 2,200 residential/commercial structures
- Approximately, over 6,000 residents could reside in the community by this phase
- Call volume could more than double for FBFD by this phase
- An additional Firefighter/Paramedic should be added to each shift
- FBFD could utilize a med truck and suppression unit to assist with call increase

Tier 3- Phases [IV & V]

- The proposed 3,966 units would meet completion
- Call volume could triple by this phase
- A fire station constructed in the geographic area must be considered
- The purchase of an additional fire engine and all the required equipment must be addressed

• A minimum of 6 new staff members should be added to the roster

Bobby Pace

Fire Chief Flagler Beach Fire Department www.FBFire.org

OF FLAGIER OF

City of Flagler Beach

Engineering Department

P.O. Box 70 Flagler Beach Fl 32136

www.cityofflaglerbeach.com

May 30,2019

To: Larry Torino, City Planner

From: Fred Griffith, City Engineer

RE: The Gardens PUD Development Agreement

Following are comments as it relates to Engineering Department concerns.

1. Master Utility Plan to be approved by Flagler Beach including a projected phasing schedule.

- 2. WWTP Facility Plan and Future Infrastructure Improvements to be phased in as development occurs.
- 3. Master Pump Station and treatment train capacity to expand in future years as this project impacts our system.
- 4. Development agreement should mention the Cities intention to provide reclaimed water for irrigation purposes to at least a portion of this development in future years and to pass along some of these costs to those receiving this added benefit thru utility fees etc.
- 5. City Utility Standards in place at the time are to be followed.
- 6. Wellfield and WTP expansion likely to be affected in future years as development occurs.
- 7. Each phase of development as it is constructed will be evaluated to be implemented into the existing Flagler Beach Utility System so that no adverse effects result and flow capacity to the system as a whole is not adversely affected.
- 8. Prepayment of water and sewer impact fees in order that future development schedules are not delayed may be an option for the developer and the City to consider in the future e depending on projected intensity of use, magnitude, and speed of development.
- 9. Reclaimed Water System, storage system, and pumps, and reclaimed water distribution system required.
- 10. The City would like to also require that this development capture 100% of storm water run-off and if feasible to utilize this as an augmentation source to the reclaimed water irrigation system.
- 11. Utility Service Agreement with the City of Flagler Beach required prior to the first phase of development approval.

Scott W. Cichon Robert A. Merrell III John P. Ferguson Mark A. Watts Heather Bond Vargas Andrea M. Kurak Michael J. Woods Raymond L. Schumann Kathleen L. Crotty Michael O. Sznapstajler Matthew S. Welch Robert E. Doan Douglas J. Collins Holly J. Woersching Sarah Zimmerman Fogle Taylor M. Westfall Jessica L. Gow



Daytona Beach • DeLand

149 South Ridgewood Avenue, Suite 700
Daytona Beach, Florida 32114
(386) 255-8171
CobbCole.com

May 21, 2019

OF COUNSEL Kelly Parsons Kwiatek Harold C. Hubka Larry D. Marsh Maja Sander Bowler Peter R. J. Thompson* *Practice limited to federal immigration matters

RETIREDThomas S. Hart

William M. Cobb (1881-1939) Thomas T. Cobb (1916-2004) W. Warren Cole, Jr. (1926-2008)

VIA HAND DELIVERY VIA EMAIL

Technical Review Committee Attn: Adam Mengel 1769 E Moody Blvd Building # 2 Bunnell, FL 32110

Re: TECHNICAL REVIEW COMMITTEE COMMENTS DATED 4-17-2019 -

#3175- PUD AMENDMENT- GARDENS

Dear Adam:

It is our firm's pleasure to represent Palm Coast Intracoastal, LLC in connection with their application for Planned Development-General Rezoning of property located in Flagler County, Florida.

Attached are the following in connection with the above referenced project:

- 1. One (1) copy of the Revised PUD.
- 2. One (1) copy of the revised PUD Exhibit "B" and Rendering.

We are in receipt of the City Technical Review Team comments dated April 17, 2019. We offer the following responses:

REVIEWING DEPARTMENT: PLANNING DEPARTMENT

Flagler County Innovation Technology Department

1. The developer will install (or require to be installed) radio signal booster systems to maintain interior radio coverage within all multistory buildings and community centers.

RESPONSE: Radio Signal Booster Systems within the development shall meet County Land Development Code (LDC) requirements at the time of application for multi-story building and community center building permits.

2. As part of subdivision and site plan-related (for non-single family residential development) improvements, the developer will install (or require to be installed) fiber-optic cabling so as to accommodate future data needs.

RESPONSE: Data needs will be addressed at the time of platting or final site plan to ensure future data needs are met, and will be provided by Spectrum or AT&T.

3. Other comments pending.

RESPONSE: Noted. Thank you.

Flagler County Land Management

1. The Master Drainage Plan shows drainage going fairly close to the open water discharge into the northern reaches of Bulow Creek. Flash discharge events like those from Nor'easters and hurricanes or even heavy summer rains are the degrading factor from urban discharge in a water body like Bulow. The flash events cause the greatest damage as the first flush can transmit relatively high concentrations of fertilizer, "Total Suspended Solids (TSS"), oil and grease, and herbicides and pesticides from residential yards and streets into the creek. The spikes of high nutrients or turbidity that might only happen a few times each year that will do the most damage to the ecosystem. The developer should take measures to ensure that the post development peak discharge will be at or below a natural discharge peak.

RESPONSE: Per the LDC, the project pre-development peak discharge for the 25-year event will not be exceeded by the post 25-year peak discharge. The permit will meet St. Johns River Water Management District and Flagler County stormwater requirements.

2. The project is just north of the northern reach of the Tomoka Marsh Aquatic Preserve (AP) on the ICW side but Bulow Creek is included to some unknown point North within Parcel D. There may be some conflict with the intent of the AP designation and the installation of the small multi-use dock facilities that are proposed in the expansion document.

Technical Review Committee
April 24, 2019
Page 3

RESPONSE: The developer does not plan to construct a multi-use dock off-site with this development but will work with Flagler County to provide a trail head accessible from this development.

3. The project is located within the geographical area contemplated in Section E of the Manatee Protection Plan (MPP). The parcel's ICW frontage is "appropriate for unrestricted development" of boating facilities. While Figure 64 of the MPP shows that the project (then referred to as the "Hammock Beach River Club") is to have a 5 slips to 100 linear foot of shoreline ratio for most of its frontage, it is unclear how that density translates to larger facilities. In the MPP the following text describes an expectation of an expansion of this project: "The owner anticipates applying for a modification of the existing permit to incorporate a more recreational, eco-tourism type development utilizing the vast amount of preservation land along Bulow Creek for hiking and other passive uses. The revised plan will potentially include a mix of single family slips as previously permitted and a residential marina including wet and dry slips. The developer envisions a total of 250 slips for the project (this includes single family lots, small residential marina, and approximately 100 dry slip storage). The developer does not have a set timeframe for permitting or construction, but did indicate it would be well into the future." The developer should be aware that the 5 slips to 100 linear feet of shoreline ratio will be the maximum limit of boating-related facilities permitted inclusive of both wet and dry slips.

RESPONSE: Developer understands the shore line ratio and that the maximum number of multiple slips is 5-slips per 100 LF of shoreline. These requirements shall be met within the development.

4. The southern end of the property is adjacent to a small piece owned by Flagler County which is slated for a public boat ramp facility. This small parcel (Parcel #13-12-31-2850-0PL30-0000) is owned by Flagler County and is anticipated to be a small public park which will include 2 boat ramp lanes and approximately 40 parking spaces. It might be worth considering that the Flagler County public facility be developed during the expansion rather than add any private boat ramps within the development. The public boat ramp could be built and operated by the Gardens similar to the arrangement at the beach access by the Hammock Dunes. If the private boat ramps are deemed by the developer as necessary for Hammock Gardens residents' access, due to some future population/accessibility condition - can it be considered that these private facilities be delayed until some population threshold reached?

RESPONSE: As discussed with County Planning staff, Applicant is willing to provide funding for such public park development in an amount not to exceed \$50,000.00, which shall be available to the County upon development of 300

rooftops within the project. Such funding shall be creditable against Flagler County impact fees. This dedication of funding is outlined in the revised Section 8.4 of the PUD Agreement.

5. Gopher tortoise and wetland mitigation measures should be memorialized now as part of the PUD approval.

<u>RESPONSE:</u> Gopher Tortoises - Prior to construction of the project a 100% gopher tortoise survey will be completed by an Authorized Gopher Tortoise Agent. Permitting through the Florida Fish and Wildlife Conservation Commission (FWC) will be completed and all gopher tortoises and protected commensal species will be relocated to a permitted recipient site as required by FWC regulations.

Wetlands – Wetland impacts and mitigation will be completed through the issuance of St. Johns River Water Management District (SJRWMD) and U.S. Army Corps of Engineers (USACE) permits. No construction will occur until permits are issued by the regulatory agencies.

Flagler County Planning Department

1. The applicant should demonstrate through the PUD amendment submittal the public benefit arising to the County from the amendment. Additionally, the submittal should answer why the proposed development would not otherwise be possible under a conventional zoning district designation.

RESPONSE: Please see the revised PUD Amendment section 2.0 included with this resubmittal.

2. The applicant should demonstrate through the PUD amendment submittal that the PUD criteria - that the proposed PUD does not affect adversely the orderly development of Flagler County and complies with the comprehensive plan adopted by the Flagler County Board of County Commissioners and that the proposed PUD will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties or the general neighborhood - are met.

RESPONSE: Please see the revised PUD Amendment section 2.0 included with this resubmittal.

3. Are there characteristics of the proposed PUD amendment that demonstrate "an opportunity for innovative urban design techniques, improved use of land, protection of valuable natural features in the community, desirable land use mix, open space, and more economical public services"? (See Land Development

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Code Section 3.03.20.A).

RESPONSE: Yes. The proposed PUD Amendment allows for the use of innovative design techniques such as clustering of residential opportunities to allow for the preservation of open space within the development. Further, the mixed-use nature of the project allows for the improved use of land by providing a desirable mix of land uses that will complement one another and create internal capture as residents of the project utilize the adjacent retail and commercial opportunities. The project preserves open space in excess of what is required under the Flagler County regulations and promotes the protection of natural features of the development including wetlands and waterfront resources for the enjoyment of future owners.

4. Will the project provide reuse of treated wastewater (as a source of irrigation water) from the City of Flagler Beach?

RESPONSE: A central irrigation design to reuse standards is proposed for the development. Initial irrigation supply will be from on-site wells. Once the City of Flagler Beach has reuse available for the project, the reuse water will be utilized for irrigation on-site.

5. Development of water-related facilities on Bulow Creek should be limited to community docks, canoe/kayak launches, and/or scenic overlooks, with individual docks prohibited (the prohibition on individual docks should be added to Section 8.4). The County encourages the developer to provide a developed community amenity that would benefit the project's residents and serve as a focal-point for the project.

RESPONSE: Please see revised section 8.4 included with these resubmittal materials.

6. The developer should incorporate village greens (large, multi-purpose open-space areas) and interconnected paths as part of the development. The paths should be sized wide enough for golf cart, pedestrian, and bicycle use.

RESPONSE: All streets within the development have sidewalks associated with them to provide for pedestrian and bicycle access. Only street legal golf carts will be allowed within the development.

7. Inclusion of the AC zoning district uses - at Section 7.0 in the draft PUD text - is problematic following substantial buildout of the project. These uses should be limited in both duration and minimum setback and/or scale of these uses.

RESPONSE: Please see revised section 7.0 included with these resubmittal materials.

8. At Section 7.0, setting the maximum lot coverage for multi-family residential at 75% and the maximum impervious at 70% does not make sense: the lot coverage cannot exceed the impervious since the lot coverage is a lesser subpart of the total impervious; please correct as needed.

RESPONSE: Thank you. Lot coverage has been revised to maximum 70%, and the maximum impervious surface has been revised to 80%.

9. At Section 7.0, the multistory height limits are not consistent with the limits within the Land Development Code; why is the substantial increase in height needed and how is this consistent with the development elsewhere within the County and proximate to this project?

RESPONSE: The height limits included in the Agreement allow for greater density of development to promote clustering of residential opportunities, provide for greater open space, and prevent urban sprawl. A sunset/shadow study shall be performed by the Applicant to show that the development does not unnecessarily impact view corridors to adjacent properties.

10. At Section 7.0, the intent of the reference in Note (2) to "5,000 ft for zero lot line residential" is unclear; please clarify the intent of this statement.

RESPONSE: Section 7.0 has been revised accordingly.

11. At Section 7.0, Note (6), easements between lots are not waived; they are often vacated after platting. If another intent is sought, please clarify.

RESPONSE: Section 7.0, Note (6) has been revised to clarify that easements will be vacated.

12. At Section 7.0, Note (8)h), eaves are not ordinarily subject to setbacks: setbacks are measured from the foundation line of any structure, not the eaves.

RESPONSE: This language has been included to clarify the amount that an eave may encroach into the setbacks required by the code regarding easements and other distance measurements. Eaves may encroach up to 24" in setbacks.

13. Section 7.2's heading should be revised to 'Minimum Parking' or something similar, otherwise the standard becomes a requirement.

RESPONSE: Section 7.2's heading has been revised appropriately.

14. Inclusion of the 1,200 acre Public Lands "D" parcel should not be included in the credit for open space; see Planning Department comments related to the Future Land Use amendment for additional information.

RESPONSE: Noted. Total open space for the project is approximately 44.64% of the site which exceeds the PUD standard open space 35% requirement, although we would like to continue to use the additional 1,200 acre donation as a known public benefit associated with the development of the property.

15. Section 9.2 needs to be further discussed to fully understand the developer's intent as to timing and use of model homes as temporary sales centers.

RESPONSE: Please see revised Section 9.2 included with these resubmittal materials.

16. County staff disagrees with the applicant's intent to transfer title to any lot without platting (see Section 9.3): the purpose of the plat is to provide a means of describing and depicting a subdivision of land into lots for sales (and development) purposes.

RESPONSE: Section 9.3 has been revised to remove lot from the list of allowable transfers without platting.

17. Text at Section 13.0 needs to change in its first sentence (in relevant part) to read as: "received final plat or final site plan approval".

RESPONSE: Thank you. Section 13.0 has been revised accordingly.

18. The intent of Section 13.0 will need to be discussed further with the applicant, in addition to any requirement for bonding of infrastructure.

RESPONSE: This section allows concurrent construction of commercial development vertical construction with supporting site or subdivision horizontal infrastructure. Access and fire protection are required prior to vertical construction. All site improvements will be accepted prior to C.O.

19. Minor modifications to a PUD are addressed in the Land Development Code at Section 3.04.02.G; the intent of Section 14.0 of the draft PUD text appears to contradict and expand these provisions beyond those modifications permitted by the LDC.

RESPONSE: Section 14.0 has been revised to reflect the minor modifications addressed in Section 3.04.02.G of the LDC.

20. A 35-year time limit for the PUD (Section 15.3) may need to be discussed further as to the developer's intent; the PUD zoning should instead continue unabated until the zoning is amended, unless another intent is sought.

RESPONSE: Section 15.3 has been revised to remove the time limitation.

21. The proposal to include vehicular access onto John Anderson Highway - where the previous PUD excluded any access connections - would be detrimental to this roadway, its scenic characteristics, and the physical limitations posed by its northernmost and southernmost portions that prevent widening to accommodate the anticipated project traffic.

RESPONSE: The projected trip generation from the project does not appear to necessitate the widening of John Anderson Highway (JAHWY). Please refer to the technical memorandum submitted by LTG with the PUD application. The previous PUD does not exclude access to JAHWY and permitted vehicular access to JAHWY with an optional overpass or underpass. 100-foot landscape buffers are proposed east and west and adjacent to John Anderson to preserve the highway's scenic characteristics. Turn lanes are proposed at project John Anderson Highway entrances.

22. Additional comments may be made based upon subsequent submittals.

RESPONSE: Noted. Thank you.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPT

No comments.

RESPONSE: Thank you.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

1. Measures should be taken to ensure that water quality within Bulow Creek is monitored and maintained on an ongoing basis.

RESPONSE: The St. Johns River Water Management District Environmental Resource Permit will detail any on-site and off-site water quality monitoring. Developer will provide water quality monitoring as required by St. Johns.

2. Final lot grading at the time of the completion of subdivision improvements is

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encouraged.

RESPONSE: Developer will complete final lot grading by phase to the extent onsite borrow is available. Developer would like to keep selected areas wooded to minimize dust and erosion.

3. Requirements for downspouts should be incorporated into the PUD text and HOA covenants and restrictions because of the limited area between lots.

RESPONSE: Please see revised section 7.1(5) indicated that downspouts shall be directed to the front or rear of the lot on residential buildings.

4. Other comments pending.

RESPONSE: Noted. Thank you.

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING - ADDITIONAL COMMENTS

1. The parcels should be platted in two plats. The parcels are not contiguous.

RESPONSE: Agree.

2. The John Anderson buffer shall be 100ft.

RESPONSE: See revised Exhibit "B", 100-foot John Anderson buffer is indicated.

3. No mechanical equipment is permitted within a 5 ft, side yard setback.

RESPONSE: Please see revised PUD for mechanical equipment setback.

4. Zero garage setback for alley's will prohibit the use of the garage due to the lack of turn radius.

RESPONSE: Noted. 5-foot setback is now indicated.

5. Specialty setbacks are not for side yard setback of 5ft.

RESPONSE: Noted. Thank you.

6. The proposed project shall provide open space based on the project limits.

RESPONSE: Please see revised Exhibit B included with these resubmittal materials which includes open space based on project limits.

7. Docks will be permitted as permitted by the governing agencies.

RESPONSE: Noted. Thank you.

8. Model homes shall be permitted following final plat approval with the approval of the performance bond and maintenance bond as required.

RESPONSE: Noted. Thank you.

9. Sales office requiring ADA parking would be required to be paved.

RESPONSE: Noted. Thank you.

10. All utilities shall be in place at the time of the construction of the model homes.

RESPONSE: Per discussion at our Technical Review Committee meeting, water and emergency access to be provided at building permit. All utilities will be accepted prior to CO.

11. No CO for a Model Home or Sales office permitted prior to the final plat approval or the CO of the subdivision.

RESPONSE: Noted. Thank you.

12. Model homes are required to have any ADA access / parking.

RESPONSE: Noted. Thank you.

13. The County Development Engineer will be the reviewer of the entire development.

RESPONSE: Noted. Thank you.

14. Utility lines for any model homes will need to be completed and cleared for use.

RESPONSE: Noted. Thank you.

15. No CO issues prior to the Final Plat and/or CO of the subdivision.

RESPONSE: Noted. Thank you.

16. A Co for any use shall not be issued for any model homes until the Plat is recorded.

RESPONSE: Noted. Thank you.

17. No title transfer is permitted without the recorded final Plat.

RESPONSE: Noted. Thank you.

18. Provide the Development Agreement from the City of Flagler Beach for the Utilities.

RESPONSE: To be provided upon receipt, prior to platting or site plan approval.

REVIEWING DEPARTMENT: COUNTY ATTORNEY

Comments pending.

RESPONSE: Noted. Thank you.

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

No comments.

RESPONSE: Thank you.

REVIEWING DEPARTMENT: E-911 STAFF

No comments.

RESPONSE: Thank you.

REVIEWING DEPARTMENT: FIRE INSPECTOR

Flagler County Emergency Management

1. Since this development is in a storm surge prone area, ensure all living space, community centers, and utilities are elevated above not just the floodplain, but also elevated above the potential storm surge.

RESPONSE: All living spaces, community centers and utilities will be elevated above potential storm surge.

2. All multistory buildings and community center (if community centers will store/serve food) buildings should include full-capacity generators capable of

powering common area HVAC, lighting, elevators, and refrigerators. Community centers, if designed correctly, can serve as post disaster comfort stations for the community. Generators and HVAC units should be built with debris protection and elevated above potential storm surge heights.

RESPONSE: It is not anticipated that multi-story buildings or community centers will store/serve food. All multi-story buildings and community centers will be elevated above potential storm surge.

3. As this development would have an impact on the number of needed shelter spaces, the County will seek through the approval of the PUD funding to add hardened/generator capacity to existing hurricane shelters.

RESPONSE: Applicant is happy to discuss this matter with the County.

4. As this development would have an impact on evacuation traffic, roadway improvements will be sought that do not restrict the flow of Barrier Island evacuating traffic.

RESPONSE: The PUD does not propose to alter or restrict the flow of traffic when evacuating the barrier island. The Florida Department of Transportation (FDOT) regulates SR 100. Any roadway improvements to SR 100 shall be in compliance with FDOT requirements and will enhance safety and/or improve roadway capacity.

Flagler County Fire/Rescue

The County will not approve any development that will degrade its ISO rating
or materially degrade its fire or EMS response time. The applicant should
respond with any measures that they propose so as to mitigate proposed
impacts to the provision of fire and EMS.

RESPONSE: Applicant has requested a meeting with the Fire Department regarding this matter. Awaiting Scheduling.

2. Open areas should be provided proximate to community centers to serve as helicopter landing zones.

RESPONSE: During platting and or final site plan review, Developer shall provide open areas adjacent to community centers for helicopter landing zones.

2. Other comments pending.

Technical Review Commitee April 24, 2019 Page 13

RESPONSE: Noted. Thank you.

Sincerely,

Robert A. Merrell III

Direct Dial (386) 323-9263 Email Rob.Merrell@CobbCole.com Fax (386) 944-7955

RAM:ajf

THE GARDENS PLANNED UNIT DEVELOPMENT AGREEMENT

This Amended and Restated Hammock Beach River Club Planned Unit Development Agreement (this "Agreement") is made and entered as of the ____ day of _______, 2019 (the "Effective Date") by and between **Palm Coast Intracoastal**, **LLC**, a Florida limited liability company, whose mailing address is 145 City Place, Suite 300, Palm Coast, FL 32164 (the "Developer") and **Flagler County**, **Florida**, whose mailing address is 1769 East Moody Boulevard, Building 2, Bunnell, FL 32110 (the "County").

RECITALS:

WHEREAS, the Developer is the owner of an 825 +/- acre parcel of land that is situated in Flagler County, Florida, located south of State Road 100, on the east and west sides of John Anderson Highway, and west of and adjacent to the Intracoastal Waterway, as more particularly described in the survey/legal description attached as Exhibit "A" (the "Property").

WHEREAS, the Property is a portion of and subject to Flagler County Ordinance 2005-22 and the associated Hammock Beach River Club PUD Agreement (the "Original PUD Agreement").

WHEREAS, the Original PUD Agreement contained 1,999± acres (the "Original PUD Acreage"). The former owner/developer of the Property subsequently conveyed portions of the Original PUD Acreage before conveyance of the Property to Developer.

WHEREAS, the Developer desires to amend and restate the Original PUD Agreement in order to develop the Property as a Planned Unit Development, composed of 3,966 Medium Density Residential Units and 500,000 +/- square feet of Mixed Use, and 10,000 square feet of Marina and associated restaurant/retail uses, as more specifically set forth herein and as depicted on the Conceptual Site Plan attached as Exhibit "B" (the "Conceptual Site Plan") and incorporated herein.

WHEREAS, the Developer has applied to amend and restate the Original PUD Agreement as provided in Section 3.03.20 of the Flagler County Land Development Code (as now or hereafter amended, the "LDC"); and

WHEREAS, this Agreement is consistent with the Flagler County Comprehensive Plan ("Comp Plan") and meets the guidelines established by the policies and the intent and purpose of Flagler County Ordinances and the Comp Plan and does promote the health, safety, morals, general welfare and orderly growth of the area affected by the rezoning request.

NOW, THEREFORE, in consideration of the premises contained herein and other good and valuable considerations exchanged between the parties hereto, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.0 **Recitals.**

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

2.0 **Findings**.

The proposed project is comprised of a mixed-use development which will offer residential, commercial, and retail opportunities to visitors and residents of Flagler County. The proposed residential uses, inclusive of single family, multi-family, and age restricted living opportunities, will draw residents and visitors to the area while also providing a larger ad valorem tax base to the County. The clustered approach to development, as shown on the conceptual plan, utilizes innovative design strategies to promote walkability and pedestrian friendly spaces while preserving open space throughout the property. The Project will include well-lit, walkable streets, multi-use trails, and sidewalks that will promote a multimodal transportation system as individuals drive, walk, and bike around the neighborhood and associated amenities, or to nearby commercial opportunities.

The proposed development does not adversely affect the orderly development of Flagler County and complies with the Comp Plan adopted by the County and the proposed development will not adversely affect the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties of the general neighborhood. The proposed development, as governed by this PUD Amendment, allows for the orderly development of the property subject to the terms contained herein. This PUD Amendment complies with the Comprehensive Plan, as amended concurrently with the passage of this Amendment, to allow for the development of residentially focused mixed-use development within Flagler County. The proposed development will be constructed in a way to promote the health and safety of residents and workers in the area, and such development will create greater opportunities for growth that will be beneficial to adjacent properties and the general neighborhood.

3.0 **General Project Description**.

The Project shall be developed in general accordance with the layout depicted on Exhibit "B" and shall be comprised of 3,966 Residential Units and associated accessory structures, and 500,000 +/- square feet of mixed-use development that will provide commercial and retail opportunities within the Property, 10,000 square feet of Marina and associated restaurant/retail uses, and 250 boat slips, inclusive of single-family slips and lifts, boat ramps, wet slips and dry storage.

4.0 Comprehensive Plan Future Land Use and Zoning.

4.1 Comprehensive Plan Future Land Use.

The Future Land Use on approximately 396.12 acres of the Property on the West side of John Anderson and \pm 315.47 acres on the East side is designated Mixed Use - Low Intensity with an additional \pm 13.53 acres on the East side and \pm 98.99 acres on the West side of John Anderson

designated as Mixed Use – High Intensity, pursuant to the Comp Plan Amendment processed concurrently with this rezoning application.

Land uses (including residential density) may be distributed throughout the Property so long as such use is allowed under the proposed Future Land Use category and applicable zoning regulations. Development of the Property as provided in this Agreement is consistent with the uses, densities and intensities allowed under the Comp Plan.

Zoning.

The Property is currently zoned as a Planned Unit Development (hereafter "PUD") pursuant to the Original PUD Agreement.

5.0 Conceptual Site Development Plan.

Exhibit "B" (Conceptual Site Plan) generally depicts a potential layout of lots, rights-of-way, buildings, parking areas, driveways, access points and other potential features or improvements to the Property. To the extent actual buildings, open space, drainage, utilities, features, improvements, infrastructure and uses are shown on the Conceptual Site Plan, they are shown for illustrative purposes. Layout and quantity/scale of improvements may change based on the needs of a particular end user of the Property. Owners or Developer shall be permitted to relocate such buildings and uses as the market dictates, or as desired, so long as the relocation is otherwise consistent with this Agreement.

5.1 Modifications to the Conceptual Site Plan.

The locations of roadways, drainage, utilities and other improvements depicted on the Conceptual Site Plan may change at the discretion of the Developer and as may be appropriate during the development review, design, and permitting processes. Modifications to the Conceptual Site Plan that comply with the general land uses and applicable development criteria contained herein do not require amendment of this Agreement or the PUD zoning approval where no conflicting provisions exist. The specific location of structures, roadways, and other improvements shall be approved in the County development review process.

5.2 Conflicts between this Agreement and the Conceptual Site Plan.

In the event of a conflict between the terms of this Agreement and the Conceptual Site Plan, the provisions of this Agreement shall prevail.

5.3 Conceptual Site Plan Approval.

Execution of this Agreement shall constitute Conceptual Site Plan approval for the Project. Final Site Plan and/or Subdivision Approval and Concurrency review shall be required as set forth in Article VIII of the Land Development Code.

6.0 **Project Infrastructure**.

The Project will include infrastructure to support the proposed uses, including potable water, fire protection, wastewater service, irrigation, drainage, roads, access, and transportation to meet concurrency requirements.

6.1 **Stormwater**

An on-site stormwater retention facility will be constructed in conjunction with the Project. The stormwater retention facility will be maintained at a level consistent with the standards of the St. Johns River Water Management District ("SJRWMD"). Stormwater collection systems will be inspected consistent with the SJRWMD. Developer shall be permitted to relocate such stormwater systems during site plan or subdivision plat approval for individual lots or structures, so long as otherwise consistent with this Agreement and applicable provisions of the LDC. Fences, sheds, air-conditioning units, pool equipment and such items are allowed in easement areas related to the drainage system and ponds, so long as these items do not prohibit or restrict the flow of stormwater drainage or maintenance within these easements. All lots, parcel and tracts intended for use for stormwater purposes and dedicated for such purpose by plat or separate instrument shall be owned and maintained by a property owner's association.

6.2 Irrigation and Other Consumptive Uses.

The Project may incorporate reclaimed water as the primary irrigation source but may include supplemental, private deep and/or shallow irrigation wells and surface water withdrawals for commercial, residential and common area irrigation, and other appropriate consumptive uses, which will be permitted through the SJRWMD. The Project may include a master irrigation system(s) for commercial, residential and common area landscape irrigation.

6.3 Internal Roads; Restricted Access.

The Residential community will be a private, gated community, with internal Project roads that may be privately owned, with restricted access controlled at the sole discretion of the Developer. In addition, access to the Mixed-Use Development associated with the Project, or any portion thereof, may be gated and controlled at the discretion of the Developer. Notwithstanding any such access controls, emergency and other service vehicles shall be permitted access into the Project as provided herein.

6.4 Private Road Rights-of-Way or Access Easements.

Private road rights-of-way and/or access easements and associated easements shall be provided to include the entire road construction and appurtenances, including drainage facilities, ditches, slopes, sight distance and traffic control devices related to the private roadways. Private roadways shall have the following design characteristics: minimum road right-of-way width shall be thirty (30) feet; minimum utility easement width shall be ten (10) feet; minimum travel lane width shall be ten (10) feet; using curb and gutter having a minimum width of 1.5 feet. Road rights-of-way that are thirty (30) feet in width shall have a minimum right-of-way including utility easements for a total of fifty (50) feet. Cul-de-sacs shall not be limited in length. However, cul-de-

sacs with a total length of more than 1,320 feet shall provide a turnaround with a maximum spacing of 1,320 feet apart. Sidewalks will not be provided on any cul-de-sac roadways or lightly traveled roads having fewer than 50 homes abutting the street. Access into the Project from public right-of-way will be granted to emergency providers and the County, and may be granted to other service providers through agreements with the Developer. Access privileges so be granted to others by reservation on the plat(s) or by other appropriate separate instrument.

The Project will provide sidewalk access along rights-of-way as follows:

Single-Family Use: 5' sidewalks located on one side of the right-of-way 5' sidewalks located on one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along one side of the right-of-way 9' Multi-use path along 0' Multi-use

6.5 **Fire Protection**.

The County shall provide fire protection service to the Project. The Developer will install fire hydrants and other appropriate infrastructure as required by the County Code of Ordinances and the LDC.

6.6 Access.

Access to the Project shall be provided from the following public rights-of-way as generally depicted on the Conceptual Site Plan: State Road 100 and John Anderson Highway. Signalization and access management plans consistent with the requirements of the County or the Florida Department of Transportation shall be permitted at these public access points. The precise location of these connections will be determined during subdivision preliminary plat and site plan development review, as applicable.

6.7 **Golf Cart Pathways**.

The Project may contain a system of golf cart pathways to provide connections between local roads that would allow access via golf cart between the residential, commercial and recreational areas within the Project without the need to use an automobile. The golf cart pathways, if developed, shall comply with federal, state and local statutes and regulations. The golf cart pathways shall be permitted to be constructed within the right-of-way and parallel to any Project roadway, as well as to cross any Project roadway at grade or otherwise, as permitted and approved by the County.

6.8 **Landscaping**.

The Project will comply with the landscape development standards in Article V of the LDC, except as otherwise provided herein.

6.8.1 Preservation of Native Vegetation; Index Trees.

The Project will meet the requirements for preservation of native vegetation and Index trees as set forth in the LDC at the time this Agreement is executed.

6.8.2 **Landscape Installation**.

Florida Grade No. 1 or better landscape material will be utilized within commercial and single-family lots, streetscapes, vehicular use areas, and other areas as deemed appropriate by the Developer. Within areas of the Project where a more naturalistic landscape character is desirable, the use of character landscape material, not specifically Florida Grade No. 1, will be permitted and will be credited similarly, provided that the material meets all other requirements of the LDC.

6.8.3 **John Anderson Buffer**.

The Developer will voluntarily provide a twenty-five (25) foot minimum and fifty (50) foot average buffer along the limits of the Project boundary that coincide with the John Anderson Highway right-of-way. Additionally, a twenty-five (25) foot perimeter landscape buffer will be provided on the perimeter of the Project, as shown on the Conceptual Site Plan. The Developer shall also provide an eight (8) foot multi-use pathway along one side of John Anderson Highway, to be constructed within five (5) years from the date of the final development permit approval for the Project.

6.9 **Signage**.

Signs shall comply with LDC Article VII, unless otherwise provided herein.

- 6.9.1 The design and intent of residential signage is to ensure adequate means of communication through signage while maintaining the attractive visual appearance within the Project. Signage shall meet the following requirements:
- 6.9.1.1 <u>Gateway Signage and Entrance Features</u>. Signage located at the primary entrances to the project (State Road Highway 100 and John Anderson Highway) shall have a maximum height of fifteen (15) feet with a maximum signage area of one hundred sixty (160) square feet. A maximum of two (2) gateway signs shall be permitted for any primary entrance. An entrance feature may be designed in conjunction with the entrance signage or it may occur separately. Any entrance feature shall have a maximum height of thirty-five (35) feet.
- 6.9.1.2 <u>Thoroughfare Neighborhood Entrance Signs.</u> Signage located along any internal road or at any neighborhood entrance shall have a maximum height of twelve (12) feet and a maximum signage area of one hundred (100) square feet. Any entrance features shall have a maximum height of twenty (20) feet.
- 6.9.1.3 <u>Commercial Signage</u>. Ground signs shall be permitted for the commercial area of the Property with a maximum signage area per sign of three hundred twenty (320) square feet and a maximum height of thirty (30) feet. Additional commercial signage and wall signage shall be permitted pursuant to the requirements of the LDC.

- 6.9.2 <u>Signage Area</u>. Signage area shall be calculated using the actual text and if applicable logo graphics area only. Walls or architectural effects shall not count toward the signage area square feet restriction but shall meet the height restrictions set forth above.
- 6.9.3 <u>Entrance Features</u>. Walls, architectural icons, water features, landforms, landscaping or other effects which announce and signify arrival area permitted for the signage on the Property. Where a sign is incorporated in an entrance feature, the sign height shall be measured from the bottom to the top of the sign copy area.

7.0 **General Development Standards**.

The general development standards specified below shall apply to the Project. Allowable uses for the Project shall include the following:

- Single-family dwellings;
- Two-family dwellings.
- Multi-family dwellings.
- Private clubs.
- Community clubs.
- Public uses.
- Public utilities.
- Houses of worship.
- Schools.
- Medical or dental clinics.
- Nursing homes.
- Institutions.
- Recreation and open space.
- Child care centers designed and constructed according to child care center rules and regulations adopted pursuant to House Bill 1867, Chapter 69-1677, Special Acts, State of Florida, and revised on October 31, 1975.
- Commercial uses and structures compatible with the other use proposed in the overall development plan.
- Other uses and structures of nature similar to those listed, after determination by the county commission at the time of overall development plan approval that such uses and structures are appropriate to the PUD development and to the overall development of the County.
- Shopping center development with all uses consistent with the permitted uses of the C-2 shopping center district.
- Home occupations (subject to special exception regulations for home occupations as outlined in subsection 3.07.03G.).
- Short-term vacation rentals.
- Marina, which may include ship store including alcohol sales and refueling.
- Microbrewery, to be defined as "establishment primarily engaged in brewing ale, beer, malt liquors, and nonalcoholic beer."
- Indoor Shooting Range
- Assisted Living Facility, to be defined as "Any building(s) or part(s) of a building or residential facility that provides housing, meals, and one or more personal services for a

period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator."

- Age targeted housing, to be defined as "Any dwelling unit whose primary ownership or occupancy is limited to those individuals over the age of 55 years of age."
- Temporary Support Facilities and Model Homes
- Boat/RV Storage, boat ramp and associated parking, boathouses and/or docks (floating and fixed)

The following additional uses outlined in the AC zoning district shall be allowed, but shall terminate upon the submittal of a Site Plan application on property located directly adjacent to such use if the Site Plan contemplates a use other than those listed herein:

- Silviculture
- Mining, shell or soil extraction, gas and oil wells
- Shooting range
- Animal shelter
- Golf course/Driving Range

In addition to the uses listed above, the development shall be permitted for any use as outlined in the LDC for the R/C, C-1, C-2, and O-1 zoning districts.

7.1 GENERAL DEVELOPMENT STANDARDS

Development of the property shall be limited to the following maximum areas:

Single-Family Residential: 541 Units*
 Multi-Family Residential: 3,425 Units*

Office: 150,000 Square Feet
 Retail: 350,000 Square Feet
 Marina and support facilities: 10,000 Square Feet

- Boat Slips (wet and dry storage): 250 slips, not to exceed allowances under the

Manatee Protection Plan.

*Units may include 250 Units designated for use as an assisted living facility, and 250 units designated as age-targeted housing. Multi-family residential includes two-family and tri-plex.

Land Use	Min. Lot Width	Min. Lot Area	Floor Area Ratio	Max. Lot Coverage by Buildings	Impervious Surface Ratio	Min. Yard Requirem ents Front/Side /Rear	Max Height of Structures	Min Unit SF
Single- family residential	37½ feet	4,000 sq ft	NA	50%	70%	15' / 5' / 10'	3 stories	900 sq ft
Multi-family residential	18 feet	2,000 sq ft	NA	70%	80%	5' / 10' / 10'	12 stories	500 sq ft

Commercial	None	None	70%	NA	75%	15' / 5' / 10'	6 stories	NA
/ Retail								
Office	None	None	70%	NA	75%	15' / 15' /	6 stories	NA
						15'		
Clubhouse	None	None	70%	NA	75%	- / 5' / 5'	6 stories	NA
and Rec.								
Facilities								
Accessory	None	None	70%	NA	75%	• / 5'	25 feet	NA
Structures						/ 5'		

- (1) Twenty (20) foot setbacks are required for commercial buildings, parking and/or storage areas along property lines adjacent to road rights-of-way and adjacent to residential uses.
- (2) Front and side yard requirements may be waived for attached multi-family, attached single-family and commercial where the uses are proposed in an integrated mixed-use project.
- (3) Alleys that are secondary accesses shall have a building setback of zero (0) feet to garages and ten (10) feet measured to the exterior garage or building wall from the access easement or right-of-way line.
- (4) A reduction of the front yard setback is permitted on those single-family structures that have porches that are at least one-half (½) of the width of the main structure. Residential structures with garages facing the street rights-of-way shall be set back a minimum of twenty (20) feet. Second front yard setback for corner lots may be twelve (12) feet.
- (5) Permitted projections such as awnings and eaves are allowed to be located within required side yards. Maximum permitted projection into side yards are two (2) feet. Side yard may be reduced to zero (0) feet on one side so long as ten (10) feet separation as measured from the furthest projection to furthest projection is maintained between buildings. The neighborhood site plan will define which lots are zero side yards.
- (6) Adjacent lots may be combined by an individual property owner. Nothing herein shall prohibit the combining of adjacent lots and waiver of setbacks and vacation of easements between adjacent lots.
- (7) A story is defined as the vertical height between each horizontal building level. Generally, a story has a height of twelve (12) feet, however, the first occupied story of a structure may be up to sixteen (16) feet in height.
- (8) Building height restrictions do not include architectural features such as towers, cupolas, belfries, spires, domes, steeples, apses, chimneys, elevators and roof parapets. Architectural features shall be limited to 33% of the building footprint/area; the height of an architectural feature is restricted to 20 feet measured from the top point of the building to the highest vertical pointe of the architectural feature.

Additionally, the following development criteria shall apply to uses associated with residential development on the Property, where applicable:

Specialty Setbacks:

a)	Air Conditioning/Heating Units	1.5 ft.
b)	Patio	5 ft.
c)	Swimming Pool/Pool Deck ¹	6 ft.
d)	Pool Enclosure	5 ft.
e)	Pool Pumps	1.5 ft.
f)	Accessory Structure	5 ft.
g)	Generators/Other Mechanical Equipment	1.5 ft.
h)	Eaves	3 ft.

NOTE: ¹Swimming pools and enclosures erected around swimming pools may only be located within the required rear or side yard.

7.1 **Architectural Standards**

- (1) All buildings and accessory structures shall be consistent with a common architectural theme. The theme shall be established by harmoniously coordinating the general appearance of all buildings and accessory structures, including but not limited to: exterior wall finishes or materials; roof styles, slopes, and materials; colors; and architectural details and ornamentation. All buildings and accessory structures shall be reviewed and approved by a property owner's association and/or architectural review committee.
- (2) All structures shall complement one another and shall convey a sense of quality and permanence. Lower grade materials, such as unfinished concrete and pre-fabricated metal, shall be prohibited.
- (3) Corporate prototype design and materials shall be permitted provided they comply with the provisions of this section.
- (4) False or real windows shall be provided on all elevations visible from public right of way in sufficient size and number to complement the proportions of the building.
- (5) Downspouts located on residential buildings shall be directed to the front or rear of the lot.

7.2 **Minimum Parking**.

Development Type	Off-street Parking
Single-family Residential	1 space per unit (exterior and attached garage).
Multi-family Residential	1 space for each 1-bedroom unit; 1 space for each 2-bedroom unit; 2.0 spaces for each 3-bedroom (or more) unit.
Mixed-use Areas and Recreational Facilities	Developer shall determine parking requirements based on use characteristics in accordance with Section 3.06.04 of the LDC. Developer may account for mixed or multiple uses, access limitations, and private nature of uses. Shared parking is permitted where private ancillary/amenity uses are combined within the Project. The parking requirements shall be subject to the approval during construction document review, but in no case shall the parking be required to exceed the minimum parking standards in the LDC.

7.3 **Finished Floor Elevations**.

All building construction, including finished floor elevations, shall comply with Federal Emergency Management Administration ("FEMA") regulations and the LDC requirements. Minimum finished floor elevations for living areas, excluding unoccupied areas tied to the building, shall be one (1) foot above the FEMA-published 100-year floor elevation. The County Engineer shall consider Developer-requested exceptions, as provided in LDC Section 4.06.06.E., which shall not constitute or require an amendment to this Agreement or the Conceptual Site Plan.

8.0 **Resource Protection**

8.1 **Open Space**

Open space shall be provided in accordance with the requirements of the Flagler County Comprehensive Plan. The definition of open space within the development shall include those areas of the property used for dry and wet retention areas, in addition to undeveloped areas within the property and those areas designated for conservation on the Conceptual Site Plan. The 1,200 acres of land to the West of the Project, which was previously dedicated to Flagler County, shall be counted towards the overall open space calculation for the Project.

8.2 Wetlands.

This Project shall meet wetland buffer requirements as set forth in section 6.02.09 of the LDC as in existence at the time this agreement is executed. This Project includes wetlands and associated buffer areas that are generally depicted on the Conceptual Site Plan. These wetlands and upland buffers are hereby referred to as Preservation Areas and are generally identified on the Conceptual Site Plan as wetlands with minimum of fifteen (15) foot and an average of twenty-five foot (25) upland buffers. Preservation Areas may be used in whole or in part as mitigation related

to SJRWMD and/or USACOE permits. The Developer shall protect the Preservation Areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants, or wildlife as required by the SJRWMD, except that Developer may develop the Property for any lawful purpose pursuant to proper authorization by the USACOE or SJRWMD. Conveyance of, or creation of an easement over, all or any portion of the Preservation Areas shall not operate to prevent the Developer from using any portion of the Preservation Areas as mitigation related to SJRWMD and/or USACOE permits.

Activities and improvements, including elevated walkways and pavilions, nature and walking trails, may be permitted within the upland buffers provided the uses/activities do not cause secondary impacts to adjacent wetland systems and are consistent with applicable regulations. Wetland areas and associated upland buffers are generally depicted on the Conceptual Site Plan. In order to implement the Project as proposed on the Conceptual Site Plan, minimal wetland impacts (approximately 10 acres) are anticipated by the parties. The Developer agrees to submit application(s) pursuant to LDC Section 6.02.05 to authorize these minimal wetland and surface water impacts and the County agrees to expeditiously process such application(s).

8.3 **Silviculture**

Much of the Project site located west of John Anderson Highway has been and will continue to be used for silvicultural purposes, including harvesting, planting, and other best management practices. Silvicultural harvesting may occur throughout the area of the Project located west of John Anderson Highway pursuant to a Forestry Management Plan approved by the Florida Forest Service as long as it involves non-protected trees as defined by the LDC and provided that the applicable upland buffers around the jurisdiction line that defines the wetland or conservation areas will not be cut or will be managed as part of the adjacent conservation corridor. All silvicultural activities shall comply with the requirements of Policy A.4.1.5 of the Comp Plan, where applicable. All silvicultural activities shall comply with State of Florida Division of Forestry Best Management Practices.

8.4 **Docks and Boathouses**

Subject to permitting, if applicable, by the Florida Department of Environmental Protection ("FDEP"), docks and boathouses shall be constructed based upon the following standards:

- Subject to Developer approval, docks for single-family homes will be permitted on an individual basis for lots contiguous to the Intracoastal Waterway.
- A maximum of four (4) community boat ramps and docks may be permitted for use by residents of the Project, in addition to the Marina facilities and associated docking located within the Project as shown on the Conceptual Site Plan. The community boat ramps and docks (fixed or floating) will eventually be owned, operated and maintained by a property owner's association.
- Bulow Creek shall be limited to two (2) community docks for limited watercraft (non-motorized, electric motor or gas-powered motor not to exceed ten (10) horsepower; jet skis

or wave runners are specifically prohibited) and with terminal platform size not to exceed three hundred (300) square feet. A community boat shed or canoe locker, not to exceed one thousand (1,000) square feet under roof, may be located on upland common area in the vicinity of the Bulow Creek dock. Individual docks shall be prohibited along Bulow Creek.

- Community docks/ramps may be permitted along the canals or any waters contiguous to the Intracoastal Waterway.
- All environmental restrictions provided in this Agreement shall also be included in the Covenants, Conditions and Restrictions of a property owner's association and recorded within the Public Records of Flagler County, Florida.
- Upon reaching the development of 300 residential units within the project, Developer shall, at the request of the County, provide funding in an amount not to exceed \$50,000.00 for the development of a public park and boat ramp located on the County owned property adjacent to the development (Parcel ID #13-12-31-2850-0PL30-0000). Any funding provided under this section shall be creditable against Flagler County Impact Fees assessed for the entire property included within this PUD Agreement.

9.0 Phasing; Temporary Support Facilities and Model Homes.

9.1 **Phasing**.

The Project may be developed in a single phase or multiple phases, at the discretion of the Developer. The Developer will notify the County of proposed phasing at the time of preliminary plat and construction plan or final site plan review submittal(s). Infrastructure necessary to support each phase of the Project shall be constructed concurrently with that phase as a condition of platting or final site plan infrastructure improvements.

9.2 Model Homes and Temporary Sales Centers.

9.2.1 Model Homes Authorized.

Construction trailers may be permitted on any lot within the subdivision prior to final plat approval in conjunction with the issuance and continuation of a land development permit. Construction trailers may not remain within the subdivision following expiration or completion of a land development permit.

Model homes may be permitted following final plat approval. A maximum of ten of the lots may be used as model homes and a maximum of two of the model homes may be used as temporary sales centers. Model homes may utilize and receive permits for private wells, septic tanks, on-site sewage treatment, disposal systems or holding tanks for water and wastewater service. Model homes will be serviced by central water and sewer when available.

9.2.2 Temporary Sales Centers

A maximum of two (2) modular office buildings shall be permitted as temporary sales centers within the development. Such temporary sales centers shall be compliant with all ADA standards for Accessible Design. Temporary sales centers may utilize and receive permits for private wells, septic tanks, on-site sewage treatment, disposal systems or holding tanks for water and wastewater service. No wetland impacts are contemplated at this time as part of the proposed temporary sales trailer use. A single sign shall be allowed in connection with each temporary sales center, which a maximum height of ten (10) feet above grade and a sign area not to exceed 50 square feet in area. A landscaping buffer of five feet shall be provided along any parcel line adjacent to a developed residential unit. Such temporary sales centers shall be allowed for a five-year duration. If, upon expiration of the five-year time period included herein, a total of 500 lots have not been approved through final plat approval, this time may be extended for an additional two-year period at the discretion of the County Planning Director.

9.3 **Title Transfer Without Platting.**

Title to any parcel or tract within the Project may be transferred in its entirety without platting.

10.0 Property Owner's Association

The Developer intends to establish one or more property owner's association for the Project. The Developer may assign responsibility for maintenance of internal roadways, lighting, common landscape improvements, fencing, signage, pedestrian easements, conservation areas, and any common property or facilities within the Project, including a water/wastewater treatment plant to serve the Project to a property owner's association.

11.0 Community Development District

A Community Development District ("CDD") has been created for the Project. The County agrees that CDDs are a reasonable and appropriate method of providing infrastructure and services to the Project. The County agrees that creation of the CDD is an appropriate means for providing, or financing, owning and maintaining infrastructure and services consistent with Chapter 190, Florida Statutes.

12.0 Land Development Code Applicability.

Development of the Project shall proceed in accordance with the terms of this Agreement. In the event of any inconsistency between the terms of this Agreement and the LDC, the terms of this Agreement shall prevail. Where specific requirements are not contained in this Agreement, the LDC in effect on the date of this Agreement shall apply to the extent that it does not conflict with the provisions of this Agreement.

13.0 **Permits and Certificates of Occupancy**.

Prior to completion of the infrastructure improvements and provided Developer has received final plat or final site plan approval, the County may issue building permits to the Developer or to builders approved in writing by the Developer for vertical development of the Project if sufficient infrastructure improvements to serve the specific building, residence or facility to be constructed has been completed by the Developer and approved by the County. If the Project is developed in phases, only the infrastructure improvements necessary to serve the specific building, residence or facility in the applicable phase shall be required to be completed and approved prior to issuance of certificates of occupancy. The provisions of this section do not apply to temporary support facilities, model homes, sales centers, sales trailers, and construction trailers.

14.0 **Minor Modifications**.

In order to facilitate minor adjustments to the plans approved as part of the Ordinance creating a PUD, the Development Administrator may approve changes in such plans which comply with the following criteria:

- 1. There are the same or fewer number of dwelling units and/or floor area; or,
- 2. The open space is in the same general amount, or a greater amount; or,
- 3. The roads follow approximately the same course, have the same or greater width, have the same public or private rights therein.

15.0 Binding Effect; Initiation of Development Actions; Subdivision of Final Plat.

15.1 **Binding Effect**.

This Agreement shall be binding on the County, the Developer, and their respective successors and assigns.

15.2 **Initiation of Development Actions**.

Development actions required by this Agreement shall be initiated within ten (10) years after the date of enactment of the Planned Unit Development Ordinance to which this Agreement is attached. "Development Actions" include the filing of any site plan, plat review, or permit application with the County or other governmental or regulatory entity.

15.3 **Submission of Final Plat.**

Approval of the Planned Unit Development shall remain in effect as long as the Project is ongoing. The Project shall be considered ongoing as long as substantial and good faith progress has been shown by Developer, or its successors and assigns, conducting construction activities in a regular continuing and orderly manner designed to meet the approved development schedule dates.

16.0 Applicable Law; Venue; Attorney's Fees.

This Agreement shall be construed, controlled and interpreted according to the laws of the State of Florida. Venue for any proceeding arising under this Agreement shall be in Flagler County, Florida.

17.0 Construction of Agreement.

This Agreement shall not be construed against either party on the basis of it being the drafter of this Agreement. The parties agree that both herein played an equal part in drafting this Agreement.

Capitalized terms contained herein shall not more force or effect than uncapitalized terms.

Captions and section headings in this Agreement are provided for convenience only and shall not be deemed to explain, modify, amplify or aid in the interpretation or construction of meaning of this Agreement.

18.0 **Severability**.

If any provision of this Agreement, or its application to any person, entity or circumstances, is specifically held to be invalid or unenforceable by a Court of competent jurisdiction, the remainder of this Agreement and the application of the provisions hereof to other persons, entities or circumstances shall not be affected thereby and, to that end, this Agreement shall continue to be enforced to the greatest extent possible consistent with law and the public interest. This Agreement shall be modified as necessary to maintain the original intent of the agreement.

19.0 **Notice**.

Any notice delivered with respect to this Agreement shall be in writing and be deemed to be delivered when (i) hand-delivered to the other party at the address appearing on the first page of this Agreement, or (ii) when deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the addresses the party shall have specified by written notice to the other party delivered in accordance herewith.

20.0 Covenant Running with the Land.

The provisions of this Agreement shall run with the Property and bind and inure to the benefit of the Developer or its successor in title or interest.

21.0 **Recording**.

The parties hereto agree that an executed original of this Agreement shall be recorded by the County, at the Developer's expense, in the Public Records of Flagler County, Florida. All subsequent orders and resolutions relating to the Property of this Agreement shall be filed by the County in the Official Records of Flagler County, Florida

22.0 Exhibits.

Exhibits to this Agreement are incorporated herein and are a part of this Agreement upon which the Parties have relied.

23.0 **Effective Date**.

This Agreement shall have full force and become effective concurrently with the Effective Date, including the expiration of any appeal periods, of the Planned Unit Development Ordinance to which it is attached. In the event that the Planned Unit Development Ordinance is ever invalidated or repealed for any reason, this Agreement shall terminate, as shall the obligations of the parties herein.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto execute this Agreement and further agree that it shall take effect as of the date executed by the parties below.

Signed, sealed and delivered in the presence of:	ce PALM COAST INTRACOASTAL, LLC, A Florida Limited Liability Company			
	By SUNBELT LAND MANAGEMENT, LLC, its manager			
Witness 1	•			
D'AN CAN'	By: William Allen, Manager			
Print Name of Witness 1	Sunbelt Land Management, LLC			
	Date:			
Witness 2				
Print Name of Witness 2				
STATE OF FLORIDA COUNTY OF				
	edged before me this day of stal, LLC. He/she is personally known to me			
or has produced as identificati	on.			
N	otary Public			
	ommission No:			

IN WITNESS WHEREOF, the parties hereto execute this Agreement and further agree that it shall take effect as of the date executed by the parties below.

Signed, sealed and delivered in the presence of:	FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
	By: Donald O'Brien Jr., Chair Date:
Tom Bexley, Clerk of the Circuit Court and Comptroller	
Approved as to Form: Al Hadeed, County Attorney	
STATE OF FLORIDA COUNTY OF FLAGLER	
	edged before me this day of, er County Board of County Commissioners. He/she l as identification.
	otary Public ommission No:

EXHIBIT A

SURVEY/LEGAL DESCRIPTION

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16. Notice of Establishment of the Cordens at Hammook Seach Combunity Sevelopment Dataset recorded Hayember 21, 2005 in Official Records David 1505, Page 754. (Affects insured parcel but blanket in nature and not picticals)

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21. Flegier County Planning and Development Board Order No. 1907 received August 20, 2015 in Official Recents Seek 2001, Page 1055. (Affects Institut partiel but bigshet in nature and not plottoble)

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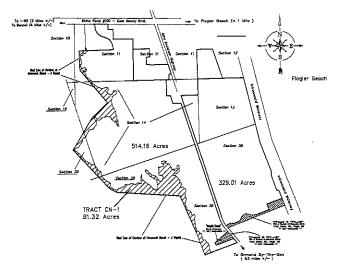
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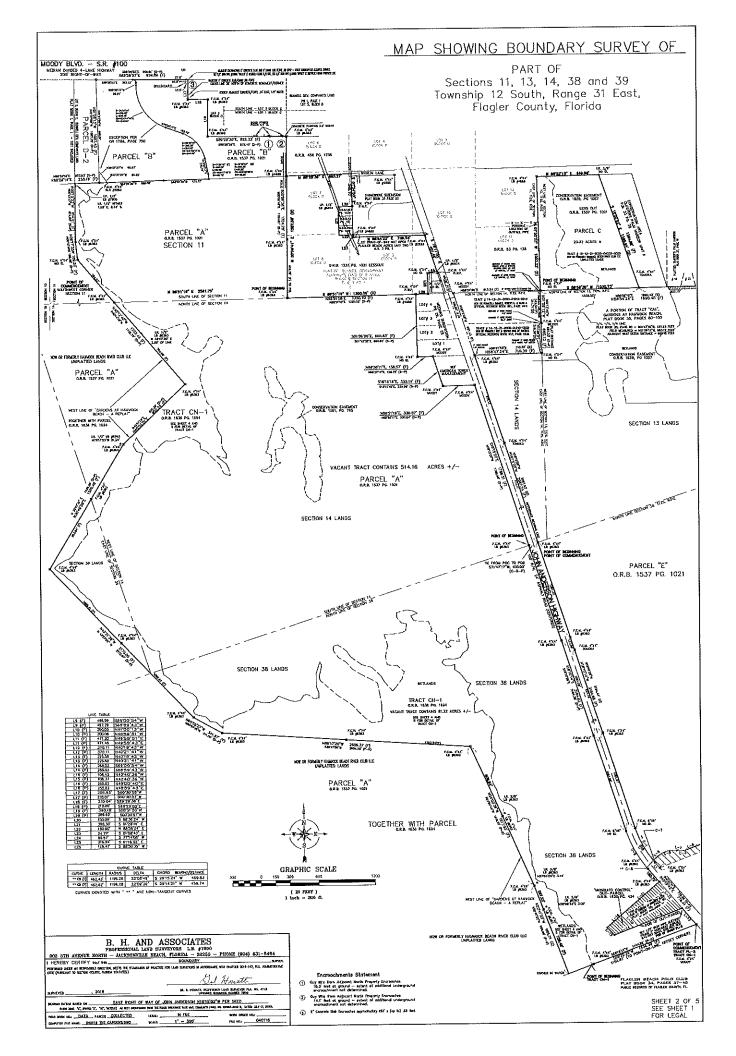
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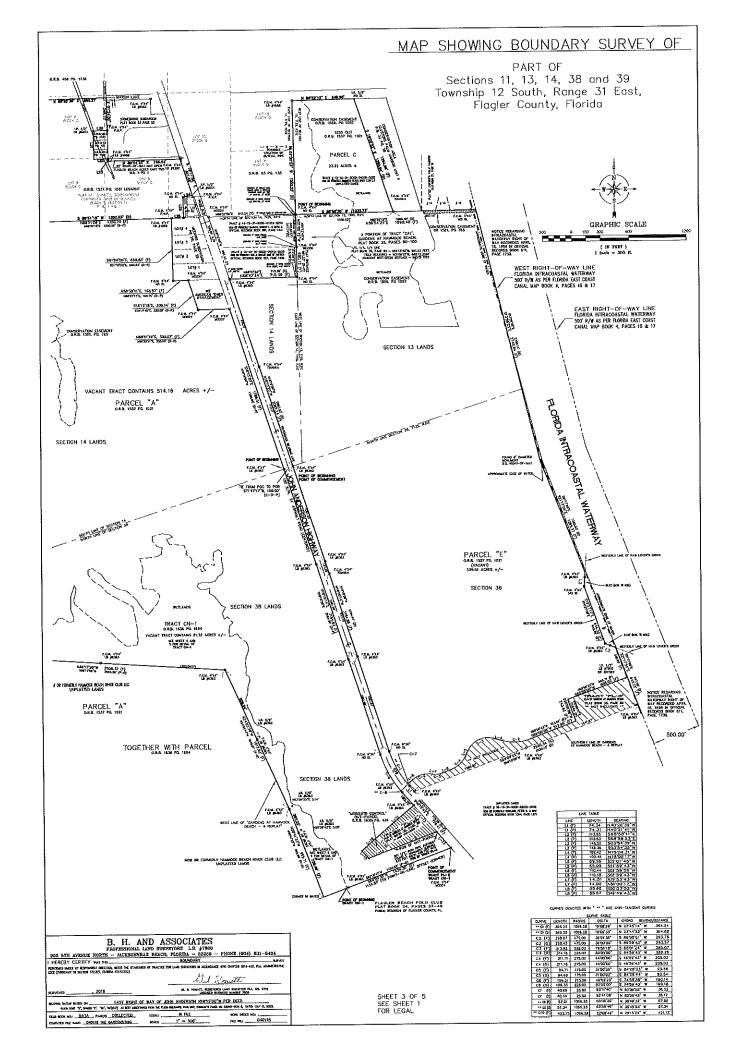
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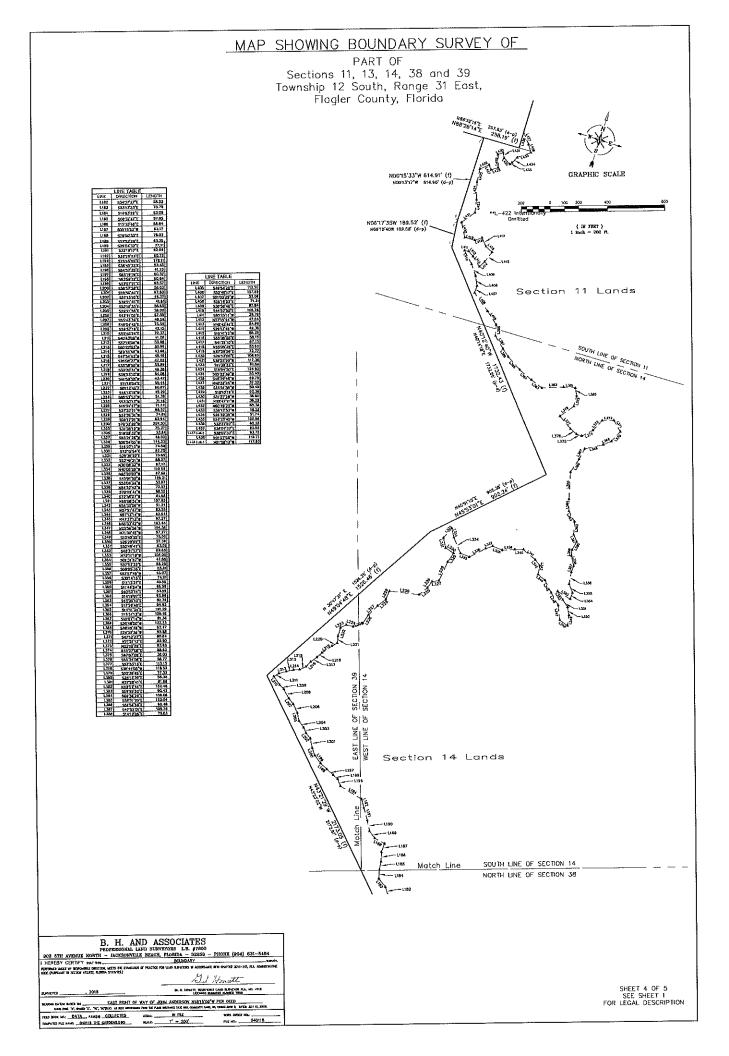
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SHEET 1 OF 5

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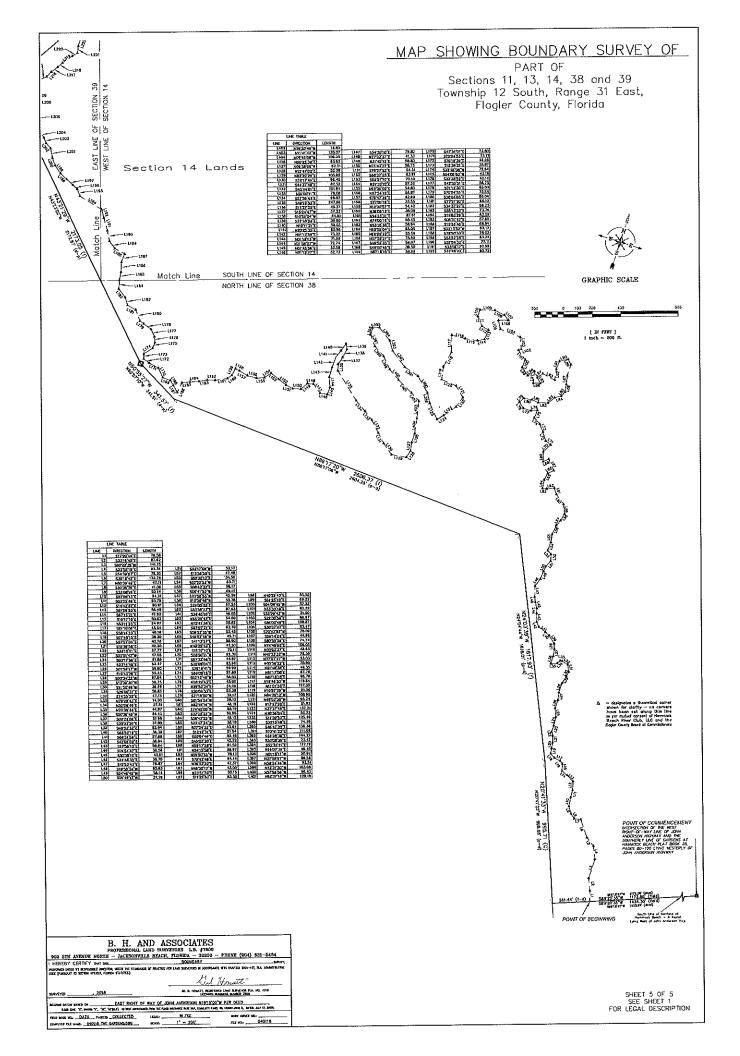
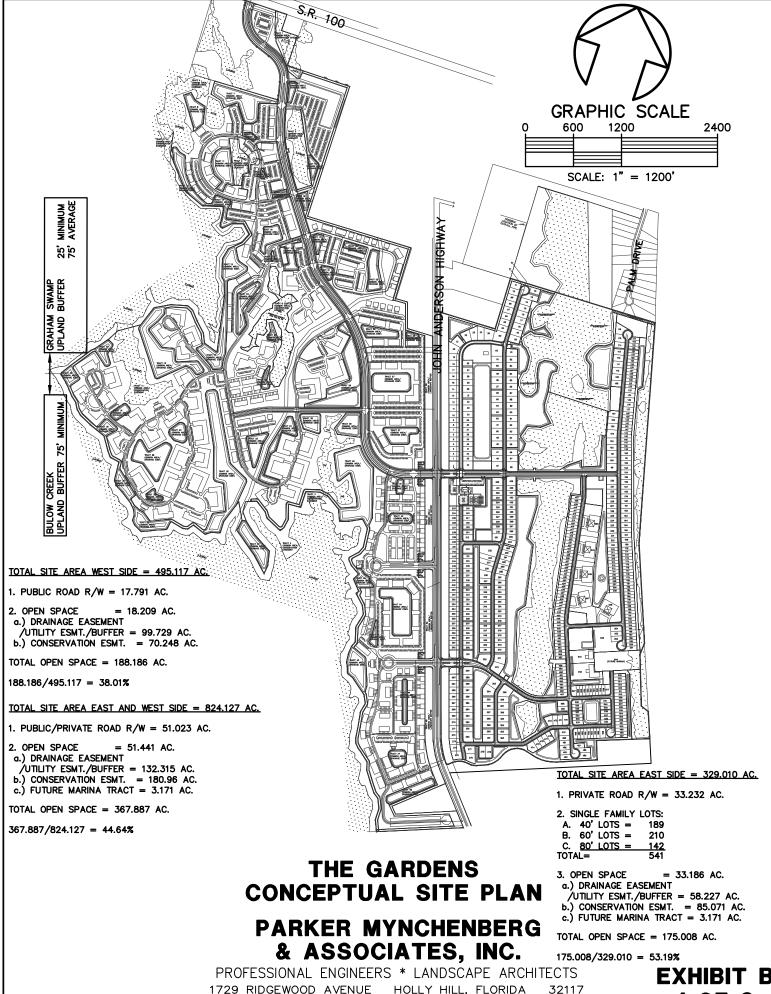


EXHIBIT B

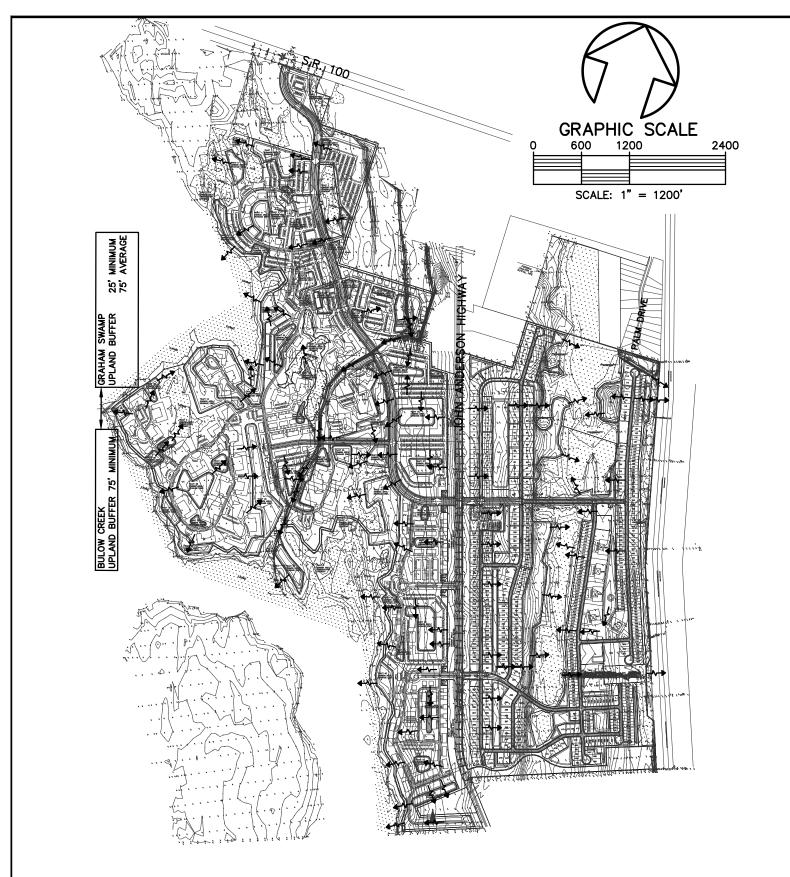
CONCEPTUAL SITE PLAN



REV 5/20/2019

1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA (386) 677-6891 FAX (386) 677-2114 E-MAIL: info@parkermynchenberg.com CERTIFICATE OF AUTHORIZATON NUMBER 00003910

1 OF 3

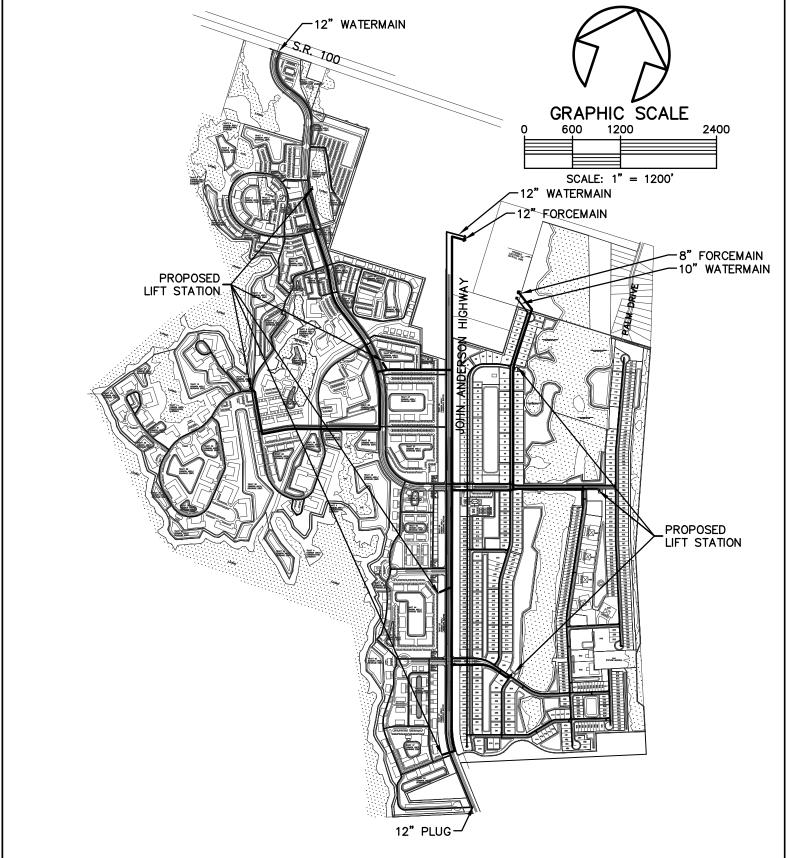


THE GARDENS CONCEPTUAL SITE PLAN - MASTER DRAINAGE

PARKER MYNCHENBERG & ASSOCIATES, INC.

PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS
1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117
(386) 677-6891 FAX (386) 677-2114 E-MAIL: info@parkermynchenberg.com
CERTIFICATE OF AUTHORIZATON NUMBER 00003910

EXHIBIT B 2 OF 3

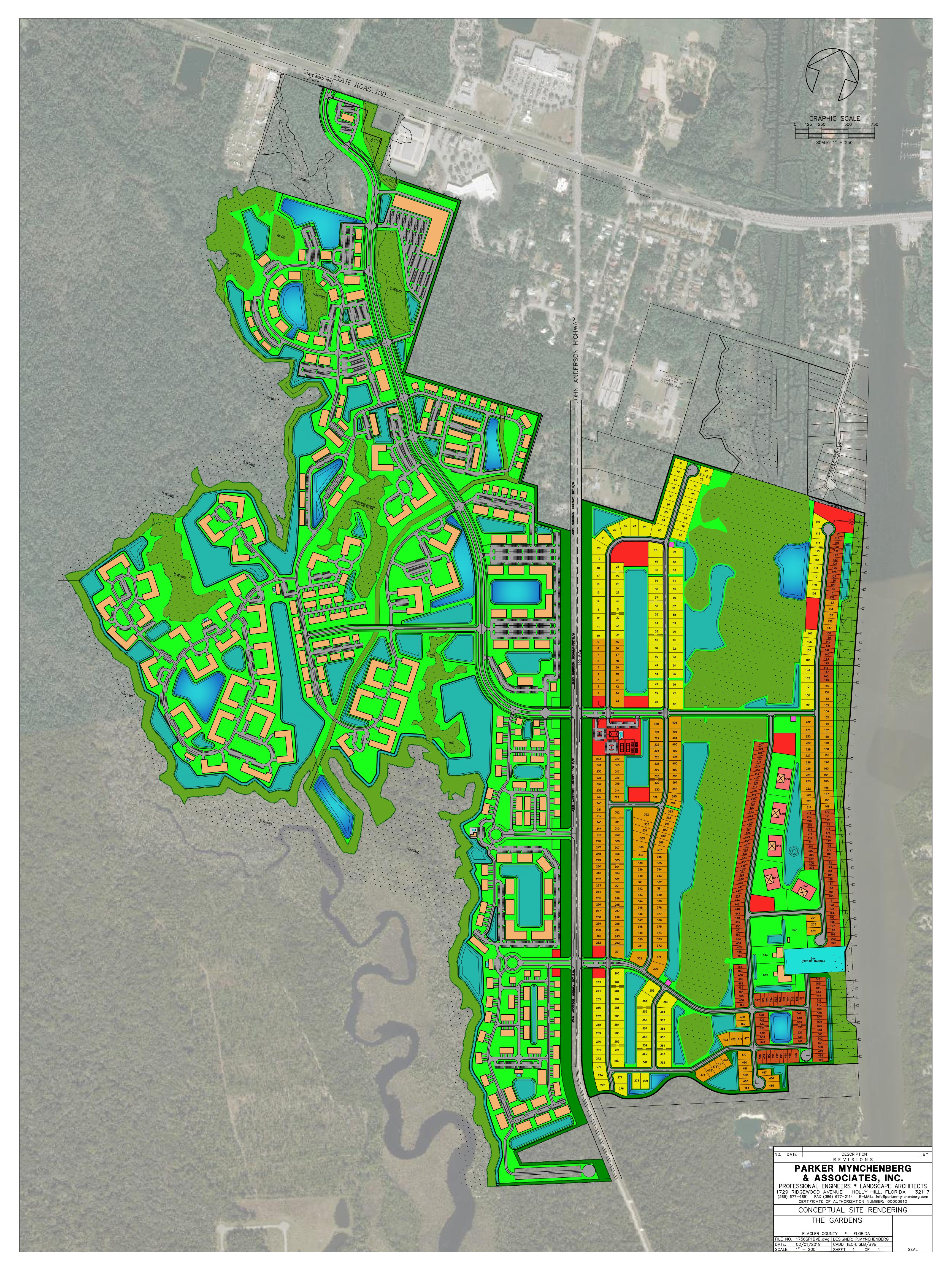


THE GARDENS CONCEPTUAL SITE PLAN - MASTER UTILITY

PARKER MYNCHENBERG & ASSOCIATES, INC.

PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS
1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117
(386) 677-6891 FAX (386) 677-2114 E-MAIL: info@parkermynchenberg.com
CERTIFICATE OF AUTHORIZATON NUMBER 00003910

EXHIBIT B 3 OF 3



FLAGLER COUNTY

TECHNICAL REVIEW COMMITTEE COMMENTS

MEETING DATE: 4/17/2019

#3175- PUD AMENDMENT- GARDENS

APPLICANT: ROBERT MERRELLII ESQ.
OWNER: PALM COAST INTRACOASTAL LLC

Distribution date: Monday, April 15, 2019

Project #: 2019020029

Application #: 3175

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: PLANNING DEPARTMENT

Flagler County Innovation Technology Department

- 1. The developer will install (or require to be installed) radio signal booster systems to maintain interior radio coverage within all multistory buildings and community centers.
- 2. As part of subdivision and site plan-related (for non-single family residential development) improvements, the developer will install (or require to be installed) fiber-optic cabling so as to accommodate future data needs.
- 3. Other comments pending.

Flagler County Land Management

- 1. The Master Drainage Plan shows drainage going fairly close to the open water discharge into the northern reaches of Bulow Creek. Flash discharge events like those from Nor'easters and hurricanes or even heavy summer rains are the degrading factor from urban discharge in a water body like Bulow. The flash events cause the greatest damage as the first flush can transmit relatively high concentrations of fertilizer, "Total Suspended Solids (TSS"), oil and grease, and herbicides and pesticides from residential yards and streets into the creek. The spikes of high nutrients or turbidity that might only happen a few times each year that will do the most damage to the ecosystem. The developer should take measures to ensure that the post development peak discharge will be at or below a natural discharge peak.
- 2. The project is just north of the northern reach of the Tomoka Marsh Aquatic Preserve (AP) on the ICW side but Bulow Creek is included to some unknown point North within Parcel D. There may be some conflict with the intent of the AP designation and the installation of the small multi-use dock facilities that are proposed in the expansion document.
- 3. The project is located within the geographical area contemplated in Section E of the Manatee Protection Plan (MPP). The parcel's ICW frontage is "appropriate for unrestricted development" of boating facilities. While Figure 64 of the MPP shows that the project (then referred to as the "Hammock Beach River Club") is to have a 5 slips to 100 linear foot of shoreline ratio for most of its frontage, it is unclear how that density translates to larger facilities. In the MPP the following text describes an expectation of an expansion of this project: "The owner anticipates applying for a modification of the existing permit to incorporate a more recreational, eco-tourism type development utilizing the vast amount of preservation land along Bulow Creek for hiking and other passive uses. The revised plan will potentially include a mix of single family slips as previously permitted and a residential marina including wet and dry slips. The developer

envisions a total of 250 slips for the project (this includes single family lots, small residential marina, and approximately 100 dry slip storage). The developer does not have a set timeframe for permitting or construction, but did indicate it would be well into the future." The developer should be aware that the 5 slips to 100 linear feet of shoreline ratio will be the maximum limit of boating-related facilities permitted inclusive of both wet and dry slips.

- 4. The southern end of the property is adjacent to a small piece owned by Flagler County which is slated for a public boat ramp facility. This small parcel (Parcel #13-12-31-2850-0PL30-0000) is owned by Flagler County and is anticipated to be a small public park which will include 2 boat ramp lanes and approximately 40 parking spaces. It might be worth considering that the Flagler County public facility be developed during the expansion rather than add any private boat ramps within the development. The public boat ramp could be built and operated by the Gardens similar to the arrangement at the beach access by the Hammock Dunes. If the private boat ramps are deemed by the developer as necessary for Hammock Gardens residents' access, due to some future population/accessibility condition can it be considered that these private facilities be delayed until some population threshold reached?
- 5. Gopher tortoise and wetland mitigation measures should be memorialized now as part of the PUD approval.

Flagler County Planning Department

- 1. The applicant should demonstrate through the PUD amendment submittal the public benefit arising to the County from the amendment. Additionally, the submittal should answer why the proposed development would not otherwise be possible under a conventional zoning district designation.
- 2. The applicant should demonstrate through the PUD amendment submittal that the PUD criteria that the proposed PUD does not affect adversely the orderly development of Flagler County and complies with the comprehensive plan adopted by the Flagler County Board of County Commissioners and that the proposed PUD will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use of adjacent properties or the general neighborhood are met.
- 3. Are there characteristics of the proposed PUD amendment that demonstrate "an opportunity for innovative urban design techniques, improved use of land, protection of valuable natural features in the community, desirable land use mix, open space, and more economical public services"? (See Land Development Code Section 3.03.20.A).
- 4. Will the project provide reuse of treated wastewater (as a source of irrigation water) from the City of Flagler Beach?

- 5. Development of water-related facilities on Bulow Creek should be limited to community docks, canoe/kayak launches, and/or scenic overlooks, with individual docks prohibited (the prohibition on individual docks should be added to Section 8.4). The County encourages the developer to provide a developed community amenity that would benefit the project's residents and serve as a focal-point for the project.
- 6. The developer should incorporate village greens (large, multi-purpose open-space areas) and interconnected paths as part of the development. The paths should be sized wide enough for golf cart, pedestrian, and bicycle use.
- 7. Inclusion of the AC zoning district uses at Section 7.0 in the draft PUD text is problematic following substantial buildout of the project. These uses should be limited in both duration and minimum setback and/or scale of these uses.
- 8. At Section 7.0, setting the maximum lot coverage for multi-family residential at 75% and the maximum impervious at 70% does not make sense: the lot coverage cannot exceed the impervious since the lot coverage is a lesser subpart of the total impervious; please correct as needed.
- 9. At Section 7.0, the multistory height limits are not consistent with the limits within the Land Development Code; why is the substantial increase in height needed and how is this consistent with the development elsewhere within the County and proximate to this project?
- 10. At Section 7.0, the intent of the reference in Note (2) to "5,000 ft for zero lot line residential" is unclear; please clarify the intent of this statement.
- 11. At Section 7.0, Note (6), easements between lots are not waived; they are often vacated after platting. If another intent is sought, please clarify.
- 12. At Section 7.0, Note (8)h), eaves are not ordinarily subject to setbacks: setbacks are measured from the foundation line of any structure, not the eaves.
- 13. Section 7.2's heading should be revised to 'Minimum Parking' or something similar, otherwise the standard becomes a requirement.
- 14. Inclusion of the 1,200 acre Public Lands "D" parcel should not be included in the credit for open space; see Planning Department comments related to the Future Land Use amendment for additional information.
- 15. Section 9.2 needs to be further discussed to fully understand the developer's intent as to timing and use of model homes as temporary sales centers.
- 16. County staff disagrees with the applicant's intent to transfer title to any lot without platting (see Section 9.3): the purpose of the plat is to provide a means of describing and depicting a subdivision of land into lots for sales (and development)

purposes.

- 17. Text at Section 13.0 needs to changed in its first sentence (in relevant part) to read as: "received final plat or final site plan approval".
- 18. The intent of Section 13.0 will need to be discussed further with the applicant, in addition to any requirement for bonding of infrastructure.
- 19. Minor modifications to a PUD are addressed in the Land Development Code at Section 3.04.02.G; the intent of Section 14.0 of the draft PUD text appears to contradict and expand these provisions beyond those modifications permitted by the LDC.
- 20. A 35-year time limit for the PUD (Section 15.3) may need to be discussed further as to the developer's intent; the PUD zoning should instead continue unabated until the zoning is amended, unless another intent is sought.
- 21. The proposal to include vehicular access onto John Anderson Highway where the previous PUD excluded any access connections would be detrimental to this roadway, its scenic characteristics, and the physical limitations posed by its northernmost and southernmost portions that prevent widening to accommodate the anticipated project traffic.
- 22. Additional comments may be made based upon subsequent submittals.

REVIEWING DEPARTMENT: ENVIRONMENTAL HEALTH DEPTNo Comments

REVIEWING DEPARTMENT: DEVELOPMENT ENGINEERING

- 1. Measures should be taken to ensure that water quality within Bulow Creek is monitored and maintained on an ongoing basis.
- 2. Final lot grading at the time of the completion of subdivision improvements is encouraged.
- 3. Requirements for downspouts should be incorporated into the PUD text and HOA covenants and restrictions because of the limited area between lots.
- 4. Other comments pending.

REVIEWING DEPARTMENT: COUNTY ATTORNEY
Comments Pending

REVIEWING DEPARTMENT: BUILDING DEPARTMENT

No Comments

REVIEWING DEPARTMENT: E-911 STAFF

No Comments

REVIEWING DEPARTMENT: FIRE INSPECTOR

Flagler County Emergency Management

- 1. Since this development is in a storm surge prone area, ensure all living space, community centers, and utilities are elevated above not just the floodplain, but also elevated above the potential storm surge.
- 2. All multistory buildings and community center (if community centers will store/serve food) buildings should include full-capacity generators capable of powering common area HVAC, lighting, elevators, and refrigerators. Community centers, if designed correctly, can serve as post disaster comfort stations for the community. Generators and HVAC units should be built with debris protection and elevated above potential storm surge heights.
- 3. As this development would have an impact on the number of needed shelter spaces, the County will seek through the approval of the PUD funding to add hardened/generator capacity to existing hurricane shelters.
- 4. As this development would have an impact on evacuation traffic, roadway improvements will be sought that do not restrict the flow of Barrier Island evacuating traffic.

Flagler County Fire/Rescue

- 1. The County will not approve any development that will degrade its ISO rating or materially degrade its fire or EMS response time. The applicant should respond with any measures that they propose so as to mitigate proposed impacts to the provision of fire and EMS.
- 2. Open areas should be provided proximate to community centers to serve as helicopter landing zones.
- 3. Other comments pending.

CITY OF FLAGLER BEACH

Comments Pending

CITY OF PALM COAST

Comments on The Gardens Draft PUD Agreement on April 12, 2019

- 1. What has changed that would substantiate why the non-residential gross floor area is being approximately doubled (from 230,000 sq. ft. to 500,000 sq. ft.) and the number of residential units is being increased by 8.75 times (from 453 units to 3966 units)?
- 2. These development numbers are more suited to an urban area with infrastructure already in place rather than a rural area with substantial environmental concerns and where the vast majority of the development would have its only main access along a single-arterial roadway.
- 3. In Section 6.4, recommend the 8' wide multi-use path be constructed on both sides of John Anderson based on the proposed very high intensity/density of development on both sides of this roadway? When this arterial gets 4-laned or potentially 6-laned it will be unsafe to encourage pedestrians/bicyclists to get to the other side of the roadway to use the multi-use path.
- 4. Is the right-of-way along John Anderson sufficient for the multi-path trails, utilities and to add future travel lanes?
- 5. In Section 6.8.2, why is the developer the one who determines whether Florida Grade No. 1 or better landscape materials will be planted in multi-family, office and institutional use areas?
- 6. The exceptionally large sign areas and their height are not conducive to Palm Coast or Flagler County.
- 7. In Section 7.0 does the mining include the extraction of fill dirt off-site? Perhaps this should be capped in an amount or by a time-frame.
- 8. The General Development Standards within Section 7.1 is more like not having any development standards at all.
- A minimum lot width of 37.5 feet and minimum lot area of 4,000 sq. ft. does not lend itself to quality single-family development.
- 10. The multi-family buildings can be 12 stories plus have an

- architectural feature up to 20 feet above the height of the building. This is certainly out of character for this neighborhood.
- 11. The architectural standards are almost non-existent.
- 12. The parking standards of 1 parking space for a 2 bedroom multi-family unit is totally inadequate.
- 13. The platting requirements in Section 9.3 allow the developer to develop without platting.
- 14. The color version of Exhibit B does not label the developments within the project. In essence, it is very difficult to distinguish between office, commercial and multi-family.