

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR ST. JOHNS COUNTY, FLORIDA

PONTE VEDRA CORPORATION,
a Florida corporation,

Plaintiff,

CASE NO: CA 16-0958
Division: 55

vs.

ST. JOHNS COUNTY, FLORIDA,
a political subdivision of the State of Florida,

Defendant.

RESPONSE IN OPPOSITION TO MOTION TO LIFT ABATEMENT

Defendant ST. JOHNS COUNTY, FLORIDA (“County”), by and through its undersigned counsel, hereby files this Response in opposition to the Motion to Lift Abatement (“Motion”) that Plaintiff PONTE VEDRA CORPORATION (“PVC”), filed on November 20, 2017, and, in support thereof, states as follows:

I.

INTRODUCTION

1. After insisting to this Court that all it sought was for the County to process its application for Planned Unit Development (“PUD”) rezoning under the County’s current Comprehensive Plan (“Plan”), PVC has shifted tactics midway through the PUD process and now insists that the County be ordered to not process the PUD application until the County Administrator issues an administrative interpretation of the Plan, which if approved as requested by PVC would have the effect of changing the Future Land Use Map (“FLUM”) of the Plan. PVC is attempting to use this premature lawsuit to force the County to change the land use designation of its property from “Conservation” to “Residential” without complying with the procedures required for notice and public hearings to amend the Plan. To be precise, PVC seeks in this

lawsuit to force this Court to intervene in the local land use decision-making process to compel the County to accept PVC's interpretation of one specific Policy in the Plan, *i.e.*, Policy A.1.11.5, and a footnote on the FLUM, in order to change the FLUM, which designates PVC's entire 100-acre site as "Conservation." In its Motion, PVC also now claims that it is entitled to a "discrete" process to adjust the boundaries of the FLUM *before* the Board of County Commissioners ("BOCC") makes a decision on PVC's PUD rezoning and development application. But in making its argument, PVC misrepresents the terms of the parties' "stipulation," fails to advise this Court of pertinent facts, and ignores the law controlling these issues. For these reasons, this Court should not lift the abatement, but rather let the County continue to process the pending PUD rezoning application and let the BOCC make a final decision.

II.

FACTUAL BACKGROUND

2. This case involves an approximately 100-acre parcel of land on the Guana River, which is almost entirely surrounded by the Guana River State Wildlife Management Area ("Outpost Parcel"). The Outpost Parcel has been designated as "Conservation" on the FLUM of the Plan since at least 2000. (Compl. ¶¶ 1, 16). It is currently being used as an adjunct site to the Ponte Vedra Inn & Club. (*Id.* ¶ 7).

3. PVC filed an application for PUD rezoning with the County to develop the Outpost Parcel as a seventy-seven (77) unit residential development to be called "Vista Tranquilla." (*Id.* ¶ 49). *Before* the County had even processed the PUD rezoning application, or held a public hearing on such request, PVC filed the Complaint in this case consisting of three (3) counts. Count I is entitled "Declaratory and Injunctive Relief Right to Processing Under Existing Comprehensive Plan"; Count II is entitled "Declaratory and Injunctive Relief Meaning of Existing

Conservation Land Use Designation”; and Count III is entitled “Declaratory and Injunctive Relief Substantive Due Process under Article 1 Section 9 Fla. Const.”

4. On October 3, 2016, the County filed a Motion to Dismiss, which essentially argued that PVC’s Complaint was premature and that the claims were not ripe for adjudication, because: (a) the PUD rezoning application had not been fully processed; (b) the County had not held the required quasi-judicial hearings on the PUD rezoning application; and (c) the BOCC had not made a final decision.

5. On February 27, 2017, the County Staff provided PVC with nine (9) pages of staff comments on the PUD application (“First Staff Comments”).

6. On April 3, 2017, this Court abated these proceedings to allow time for PVC to pursue its PUD rezoning application and to allow time for the BOCC to hold a public hearing and make a final decision on such PUD rezoning application.

7. On June 30, 2017, PVC made a second submittal of its PUD rezoning application in response to the First Staff Comments. The second submittal included a number of changes from the initial submittal.

8. On July 31, 2017, the County Staff submitted to PVC a ten (10) page response to the second submittal (“Second Staff Comments”). (PVC only supplied this Court with two (2) pages of this document, so a complete copy of the Second Staff Comments is attached to this Response as Exhibit “1.”) To date, PVC has not responded to the Second Staff Comments.

9. On August 31, 2017, counsel for PVC submitted a letter to the County entitled “Application for Administrative Interpretation” directed to the meaning of certain policies in the Plan and objecting to the County Staff’s comments in the Second Staff Comments regarding those Plan policies. (See Ex. E to PVC’s Motion).

10. On October 4, 2017, the County Attorney returned PVC's Application for Administrative Interpretation, concluding that the process to seek an administrative interpretation "provide[s] mechanisms for obtaining interpretations of this Code, meaning the LDC [land development code]." As a matter of law, the "Code" is different than the "Plan." The County Attorney noted that interpretation of the Plan "is ultimately a matter for the Board of County Commissioners and is most appropriately done in the context of your client's rezoning application." (Ex. F to PVC's Motion).

11. On November 20, 2017, PVC filed the instant Motion.

III.

THE COURT SHOULD DENY PVC'S MOTION

12. In its Motion, PVC mischaracterizes the "stipulation" made at the hearing when this Court abated this case. In so doing, PVC alleges that "the County has violated the Order and underlying stipulation by continued refusal to make a boundary determination based on field surveys, as clearly required by the existing Comp Plan." (PVC's Motion at 1). PVC further claims the County has made "other attempted evasions of the Order" by refusing to allow PVC "to gain a point of entry to determination [sic] of this predicate boundary adjustment issue by the Board of County Commissioners ("BOCC")," without noting that it was PVC that suggested the issue be resolved as part of its PUD rezoning application. (*Id.* at 2). PVC also alleges that the County has taken action in violation of the Order to deprive PVC of its "right to a predicate administrative interpretation" and complains that the County Staff has not complied with the "stipulation" by making a recommendation on "the exact development / conservation boundary" of the FLUM. (*Id.*).

13. Contrary to PVC's assertions in its Motion, there was never a stipulation that the County would "make a boundary change," or that the County would process a boundary change for PVC as a "discrete" and separate process outside the regular PUD rezoning process. Rather, the County simply agreed to apply the existing Plan as it processed the PUD rezoning application and to allow PVC to make its arguments that the FLUM boundary should be changed at a quasi-judicial hearing before the BOCC on the PUD rezoning application. The County's undersigned counsel tried to make this clear at the April 3 hearing by stating: "[b]ut we are not asking for a comp plan amendment to have this hearing. They proceed with the plan that's in front of them. And it may very well be that they don't get approved because it's designated conservation. Okay." (Ex. A to PVC's Motion at 34). County Attorney Patrick McCormack clarified the County's position at that time in response to this Court's direct inquiry, stating:

The County will hear this application under the current comp plan. During that hearing the applicant will be able to make its argument that the footnote has some effect and our Board of County Commissioners will hear that argument as well and then at that point, you know, the Board will make a decision on it. And that decision may just stand or it may be appealed.

(*Id.* at 36). Mr. McCormack later reiterated his understanding of the "stipulation" to this Court, stating as follows:

MR. McCORMACK: Yes. As I understand it, the case will be stayed under the presumption that the application will go forward, we will come to the Board in a reasonable time, the Board will make a decision, which may or may not be appealed by somebody. If the Board is unable to make a decision for some reason, counsel will notify the court, the court can –

THE COURT: Reconvene. I can reconvene.

(*Id.* at 38).

14. This Court must realize that the purpose behind the Complaint and PVC's Motion is to force the County Staff to make an "administrative" amendment of the FLUM based on Plan Policy A.1.11.5, and, by the stroke of a pen, change the actual future land use designation on the FLUM for the Outpost Parcel from "Conservation" to "Residential" in order to accommodate PVC's proposed development. However, doing so would avoid providing the required public notice, holding the required public hearings, and obtaining the required State agency review mandated by State law in order to amend a comprehensive plan. *See § 163.3184(11), Florida Statutes.* This should not be countenanced by this Court, at least not before the BOCC has decided the issue at a hearing on the pending PUD rezoning application.

15. Further, it is telling that PVC fails to cite Policy A.1.11.5 in its entirety. Indeed, the failure to do so identifies the weakness of PVC's argument. In his letter dated October 4, 2017, to PVC's counsel, the County Attorney set forth the entirety of Policy A.1.11.5, which states as follows:

The exact boundaries of the land use designations on the Future Land Use Map *may* require interpretation in order to determine the appropriate land use designation of various parcels and lots. *When necessary*, the following criteria shall be used to establish the location of a specific boundary and *to allow minor deviations, if not clearly delineated on the Future Land Use Map*:

(a) The closest parcel or lot line when a land use designation boundary splits a specific parcel or lot. This provision will carry additional weight if the portion of the split lot or parcel is precluded from development as defined by the Land Use Element. However, in no instance shall a boundary line be extended more than two hundred (200) feet to incorporate the entire parcel or lot. A specific boundary line may not be extended more than one time unless changed by a Comprehensive Plan amendment.

(b) In the absence of a nearby parcel or lot line, any geographic, manmade, or environmental features which serve as natural boundaries (e.g. roads, canals, streams, wetlands, municipal boundary, or township, range, section lines). However, in no

instance shall a boundary line be extended more than two hundred (200) feet. A specific boundary line may not be extended more than one time unless changed by a Comprehensive Plan amendment.

(c) The landward boundary of tidal marsh designated Conservation shall be the mean high water line and shall also include those upland islands located waterward of the mean high water line of the tidal marsh. The exact landward boundary of other areas designated Conservation lands on the Future Land Use Map shall be determined by a field survey performed pursuant to applicable regulatory requirements.

(Emphasis supplied).

16. In its Motion, PVC selectively quotes only those provisions of the Policy it determined were “pertinent.” (PVC’s Motion at 2). Notably excluded from PVC’s Motion is any citation to the stated limitations on the use of the administrative boundary amendment process, which is to only be used for “minor deviations,” “[w]hen necessary,” and then only if the specific property boundary is “not clearly delineated on the Future Land Use Map.” (*Id.*).

17. Here, the Outpost Parcel is clearly delineated as “Conservation” on the County’s FLUM. A map of the Outpost Parcel showing the future land use designation is attached to this Response as Exhibit “2.” As one can see from the map, the administrative modification of the FLUM proposed by PVC would have the effect of moving the boundary of the Conservation land use designation hundreds of feet across the 100-acre parcel.

18. In addition to misinterpreting Policy A.1.11.5, PVC contends in its Motion that the administrative boundary adjustment issue is a “predicate” to a decision on its pending PUD rezoning application. In so doing, PVC claims that it is entitled to a “point of entry to determination [sic] of this predicate boundary adjustment issue by the Board of County

Commissioners” *before* the BOCC even holds a quasi-judicial hearing on the PUD rezoning application.¹ (See PVC’s Motion at 2).

19. First of all, this argument was not in PVC’s Complaint and it certainly was not presented to the Court at the April hearing. It also was not made a specific part of any stipulation. The hearing transcript reflects that while PVC had certainly raised the boundary adjustment Policy as an issue, it was not arguing that it was a “predicate” to the BOCC even holding a quasi-judicial hearing on the PUD rezoning application – which it is not.

20. Moreover, PVC’s argument that it is entitled to an administrative determination of the FLUM boundaries outside of the PUD rezoning process, and before the BOCC even considers PVC’s pending PUD rezoning application, is contrary to its prior representations to the County. In a July 2016 letter to the County Administrator dismissing a prior administrative appeal on this very issue, PVC’s counsel wrote:

This dismissal is without prejudice to Ponte Vedra Corporation’s previously stated position concerning the meaning of the Conservation land use designation applicable to the referenced property.

As discussed during our recent meeting, Ponte Vedra Corporation will apply for a PUD approval under the existing land use designation. This will obviate the procedural dispute preserved by the County in the existing stay stipulation, **and allow the County Commission to more effectively assess the Comprehensive Plan consistency of Ponte Vedra Corporation’s proposal in the context of deciding the PUD application.**

(Emphasis added). A copy of the above-quoted correspondence is attached to this Response as Exhibit “3.” While this quotation may be a bit obtuse, in context, it is clear that counsel for PVC

¹ On page 7 of PVC’s Motion, PVC erroneously claims that it cannot “prepare for the quasi-judicial public hearings on its PUD application” without first receiving this boundary determination.

was talking about an administrative interpretation of Policy A.1.11.5 and the boundary adjustment issue. Indeed, attached to such letter was PVC's earlier Application for Administrative Interpretation that involved this very same Policy regarding the administrative adjustment of FLUM boundaries that PVC now claims is a "predicate" issue.

21. On PVC's current position that the boundary adjustment Policy must be applied before the BOCC considers the pending PUD rezoning application, the County would submit there is no legal basis for such a piecemeal approach to quasi-judicial hearings. Rather, an applicant such as PVC is free to claim in its application, and at the quasi-judicial hearing on a PUD rezoning application, that Policy A.1.11.5 modifies the FLUM, and, thus, its proposed project is consistent with the Plan, notwithstanding the FLUM designation of "Conservation." (For the record, the County does not concede the validity of this point. That said, PVC may make this claim at the required quasi-judicial hearings, and, thus, preserve the issue for judicial review if the BOCC were to rule against PVC on this contention.).

22. Simply put, the meaning and application of Policy A.1.11.5 of the Plan is for the BOCC to determine. Consequently, what the County Staff thinks about the Policy is not controlling. Further, seeking an appeal of the County Staff's interpretation of the Policy made in the Second Staff Comments is not a legitimate or alternative way to submit this issue to the BOCC. Rather, PVC's "point of entry" for raising this issue is at the quasi-judicial hearing before the BOCC on its PUD rezoning application, which the County is processing.

23. Without unnecessarily drawing this Court any further into the local land use process, the County submits that these issues – *i.e.*, whether the County Staff was correct about its interpretation of Policy A.1.11.5 and whether the boundary adjustment Policy should amend the FLUM in this case – may be addressed by this Court only when this case is ripe for judicial review,

which is after the BOCC has considered such issues. See *Hasam Realty Corp. v. Dade Cnty.*, 178 So. 2d 747, 748 (Fla. 3d DCA 1965) (affirming dismissal of complaint as premature where underlying claim was not final because an appeal to the board of county commissioners had yet to be decided writing, noting “[i]f a plaintiff has no valid cause of action on the facts existing at the time of filing suit, the defect cannot ordinarily be remedied by the accrual of one while the suit is pending”); see also *City of Sunny Isles Beach v. Publix Super Market, Inc.*, 996 So. 2d 238, 239 (Fla. 3d DCA 2008) (granting writ of prohibition, concluding that the City attorney’s legal opinion could be addressed in a certiorari proceeding on the underlying site plan); *City of Coral Gables v. Fortun*, 785 So. 2d 741, 742 (Fla. 3d DCA 2001) (“At the time Respondents sought relief in circuit court, the City Commission had not taken final action on the separation application; it had remanded the latter to the Planning and Zoning Board for recommendation. As a result, Respondents’ suit was premature and the circuit court lacked subject matter jurisdiction to hear the matter.”). For that reason, completely lifting the abatement would be improper.

24. PVC further contends that “staff has not complied with the stipulation and Order with respect to considering PVC’s submitted field studies to make a recommended determination of the exact development / conservation boundary according to the existing Comp Plan provisions.” (PVC’s Motion at 5). However, as noted above, there was no “stipulation” that “staff” would make such a recommendation. It is the BOCC that determines if Plan Policy A.1.11.5 should be applied to amend the FLUM in this instance. Moreover, while PVC did not quote the operative section of the Second Staff Comments in its Motion, a review of the Second Staff Comments demonstrates that the County Staff has actually considered the issue and does not agree with PVC that the Outpost Parcel is designated “Residential” or that Policy A.1.11.5 should be applied to amend the FLUM. (Ex. “1” at 2).

25. Again, the County acknowledges that the County Staff's statements do not control the outcome of the BOCC's quasi-judicial hearing – the County Staff's recommendation is just that, a recommendation. It is ultimately up to the BOCC to determine what the Plan means, and whether the boundary of the FLUM should be adjusted or not. However, the BOCC's determination on such issue should only be done when PVC's pending PUD rezoning application is brought before the BOCC at the required quasi-judicial hearing. This may happen either at PVC's request, or after the County Staff has determined that the PUD application is sufficient and ready to be scheduled for hearing.

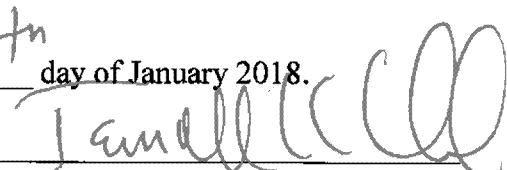
26. In sum, as discussed above, PVC has not responded to the Second Staff Comments on the pending PUD rezoning application. If PVC would just proceed with its pending PUD rezoning application, it could make its arguments about the Plan Policy and the FLUM boundary before the BOCC and properly preserve such issue for judicial review, if deemed necessary. In the meantime, this Court should keep this case abated. *Cf. DeCarlo v. Town of West Miami*, 49 So. 2d 596, 596-97 (Fla. 1951) (“The administrative boards usually provided for the consideration and review of zoning problems are made up of local people, having the advantage of full local information as to the reasons behind the various zoning regulations. Their findings, while not conclusive, are indeed helpful in the ultimate determination of the rights of the parties. Moreover, the inequalities of a zoning ordinance, if called to the attention of such local administrative boards, may frequently be adjusted at that level. Such boards should, at least, be given an opportunity to afford relief, or state their reasons for not doing so.”).

IV.

CONCLUSION

27. Accordingly, for the reasons set forth herein, this Court should deny PVC's Motion to Lift Abatement.²

RESPECTFULLY SUBMITTED on this 7th day of January 2018.



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² PVC's counsel did not confer with counsel for the County before filing the Motion, as required by the rules of this Court and the Seventh Judicial Circuit. If counsel had done so, perhaps the parties might have been able to agree to a limited lifting of the abatement for PVC to file an amended complaint, without prejudice to the County to raise its defenses, including those raised in the motion to dismiss, after the BOCC issues a final order on the PUD application.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court by using the ePortal system and served a copy thereof via Electronic Mail to:

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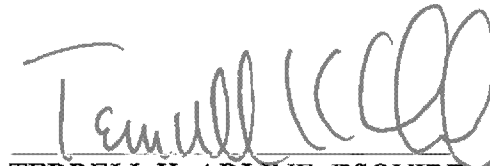
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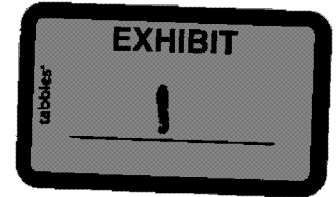
Email: canderson@gunster.com

on this 7th day of January 2018.


TERRELL K. ARLINE, ESQUIRE

PUD REZONING

COMMENTS



Application Number: PUD 2016000018

Submittal #: 2

Project Name: Vista Tranquilla

Applicant: Tony Robbins

Project Description: Request to rezone approximately 99.3 acres from Open Rural (OR) to Planned Unit Development (PUD), to allow for the construction of a 66 single family home subdivision.

When design changes are made to subsequent submittals that are not the result of comments from a previous review, they must be brought to the attention of county staff. Failure to do so may result in additional submittals or possible delays during construction.

Notice: Please read staff comments carefully as they may individually cite to specific provisions in the law or local regulations denying your development permit as defined in Chapter 163.3164 and pursuant to Chapter 125.022, Florida Statutes.

DEPARTMENTS

APPLICATION REVIEW SUPERVISOR

Information Only:

Lisa Brown, Application Review Supervisor, Growth Management | 904.209.0692, lbrown@sjcfl.us

PLANNING AND ZONING

4. Section E of the proposed MDP is unclear. According to the Comprehensive Plan, the Residential C Coastal Future Land Use designation allows up to four (4) unit per acre with the inclusion of central water and sewer. Please revise accordingly.

July 17, 2017. The MDP Text was clarified to address and clarify the Residential-C density within the proposed PUD; however, please note that staff has not accepted the subject property is designated Residential-C.

8. Please provide the maximum height and square footage of the sign structure as well as the ADA dimensions or provide a unified sign plan, showing ADA, structure size, architectural details and colors.

July 17, 2017. Please provide the 15 foot maximum height of the entrance sign includes the base structure, columns, and any decorative edging or element; however, please note, Article VII of the Land Development Code was revised in May 2017. The revisions allow for Entry Features associated with Project Identification, which allows a maximum 25 foot height, a 20 foot setback from County right-of-way and shall not interfere with sight distance triangles. The applicant may want to consider this revision as part of the MDP Text regarding the entrance signage.

11. There appears to a conflict as to the water/sewer provider. Section H.5 provides water/sewer is provided by JEA while Section I states JEA has consented to allow St. Johns County to provide water/sewer. Please clarify.

July 17, 2017: Due to the amended language, it appears that St. Johns County is supplying the electric service to the

project. The electric service is supplied by either JEA or FPL. Please correct.

July 17, 2017 New Comment based upon 2nd Submittal: Section G. Design Criteria provides how Front, Side and Rear setbacks will be measured; however, it appear the language is conflicting as it allows measurement from the furthest projection then provides for measurement from projected features. Please revise for clarity.

July 17, 2017 New Comment based upon 2nd Submittal: Section H.2 provides the applicant shall have the option to dedicate the cul-de-sac to the County as public right-of-way. Please add to the text that any acceptance of dedication shall be at the sole discretion of the Board of County Commissioners and nothing in this PUD shall be construed as affirmative acceptance by the Board of County Commissioners of the cul-de-sac.

July 17, 2017 New Comment based upon 2nd Submittal: Section H.4 Recreation and Open Space, provides that the park may include but not limited to the listed park elements. Please revise to include a minimum of park elements that shall be constructed and provide timing as to when the park will be constructed, such as prior to horizontal as-built approval or platting of the property.

July 17, 2017 New Comment based upon 2nd Submittal: Please provide the size of the Neighborhood Park, shown on the MDP Map. Please provide size within the MDP Text and in Site Data Table on the MDP Map.

July 17, 2017 New Comment based upon 2nd Submittal: Please provide the number of acres of open space on the MDP Map.

July 17, 2017 New Comment based upon 2nd Submittal: Please provide a revised application showing a reduction in the number of units from 77 to 66.

July 17, 2017 New Comment based upon 2nd Submittal: Please label the space at the northern end of the Neighborhood Park on the MDP Map.

Information Only:

1. The application and MDP Text state the subject property is designated as Residential-C. The subject property is designated Conservation on the Future Land Use Map. A Comprehensive Plan amendment is required. Any proposed amendment may be reviewed and heard at public hearings concurrent with the proposed PUD.

July 31, 2017. Staff respectfully disagrees that the subject property is designated as Residential-C or that the Residential-C designation of certain adjacent property should be extended to the subject property. Staff does not find that the applicant has demonstrated that the proposed PUD is consistent with the Comprehensive Plan and the subject property's Future Land Use designation of Conservation. In particular, staff does not find that the applicant has demonstrated that the exact boundaries of the land use designation of the subject property on the Future Land Use Map require interpretation on the basis that the location of a specific boundary is not clearly delineated on the Future Land Use Map. Comp. Plan A.1.11.5. Further, staff does not find that the examples cited by applicant of past applications of the Conservation designation are substantially similar to the subject property and circumstances presented in the applicant's proposal. Staff will continue to process the application and will schedule the application for public hearing upon a determination by staff that the application is sufficient and ready for public hearing or upon written request from the applicant that the item be scheduled for public hearing. Development Review Manual Sec. 10.03.A.6.

Information Only:

July 28, 2017: Prior to the staff report and subsequent public hearings, staff will review the site for compatibility.

CONCURRENCY/TRANSPORTATION PLANNING

3. Applicant is made aware that analysis of the Mickler Rd/Neck Rd intersection will be required in the concurrency review to determine required site access improvements. Please acknowledge.

Thursday, July 13, 2017 - The applicant is made aware that based on the project daily trip generation, right and left turn lanes will be required at the Mickler Rd/Neck Rd intersection pursuant to Section 6.04.05.H of the Land Development Code. **Please revise PUD Text to include this requirement.**

Information Only:

1. Project is subject to compliance with Article XI of the Land Development Code (Concurrency) as a Major Project estimated to generate 50+ average weekday peak hour trips based on 77 single family units.

An Application for Concurrency Determination, including a Land Development Traffic Assessment (LDTA) is required to be submitted to the Transportation Planning/Concurrency Section for review. **The fee for review of a Major Project is \$2,337.00 within the St. Johns County Utility Service Area.** A traffic pre-application meeting is required prior to conducting the traffic study. Please contact Jan Trantham at 904-209-0611 with any concurrency questions or to schedule the required traffic pre-ap meeting.

A Final Certificate of Concurrency is required prior to Construction Plan approval.

Please indicate if applicant will make application for concurrency in conjunction with PUD review.

Thursday, July 13, 2017 - PUD revised to 66 single family lots. Project remains subject to concurrency as a Major Project with a Final Certificate of Concurrency required prior to Construction Plan approval. **The applicant is made aware that the recently updated Transportation Analysis Spreadsheet dated 7/1/2017 indicates a Deficient status for Link 72 (Mickler Rd from CR 210 to SR A1A).**

Information Only:

2. A school concurrency determination by the St. Johns County School District is required prior to issuance of a Final Certificate of Concurrency by the County. The application for school concurrency is submitted directly to the St. Johns County School District for determination concurrent with application at the County. Application information can be obtained on the School District web site at:

<http://www.stjohns.k12.fl.us/depts/fp/>

Nicole Cubbedge at the SJC School District can be contacted for application information at 904-547-7674.

Information Only:

Concurrency/Transportation Planning Reviewer: Jan Trantham, Senior Transportation Planner, 904-209-0611, jtrantham@sjcfl.us

Information Only:

PRELIMINARY TRAFFIC IMPACT REVIEW:

The following assessment is a non-binding traffic impact analysis for Vista Tranquila PUD to assess for potential impact based solely upon the applicant's intent to develop within this rezoning application.

As provided by the applicant in the rezoning application, the applicant intends to develop **66 single family units estimated to generate 72 new, external p.m. peak hour trips and 628 average daily trips.**

The directly accessed roadway segment is Link 72 (Mickler Rd from CR 210 to SR A1A). **Link 72 is currently classified as Deficient with total committed traffic at 124.7% of the approved peak hour service volume capacity. If Link 72 is impacted at 1% or more of the approved peak hour service volume, mitigation will be required (to be determined in the formal concurrency review).**

The actual proposal for development at time of construction plan is subject to concurrency review and compliance with Article XI of the Land Development Code. At that time, a formal concurrency application and a detail land development traffic analysis will be required and concurrency will be determined based upon the current availability of public infrastructure.

HISTORIC PRESERVATION PLANNING

The archaeological sites (8SJ440 and 8SJ441) present on the property represent a Potentially Significant Cultural Resource to St. Johns County (LDC 3.01.04, Section C, Part 4). An archaeological data recovery report was received and reviewed by this office (Handley, Newman, and Floyd 2016) regarding 8SJ441 and 8SJ440. However, the Phase I archaeological survey completed in 2014 is deemed insufficient for the threshold of compliance required by the county in reference to a Potentially Significant Cultural Resource (LDC 3.01.04, Section D, Part 2). Thus, additional Phase I testing is required outside of the currently established boundaries of 8SJ440 and 8SJ441 in order to make a final determination.

July 6, 2017

An addendum to the Phase I survey (Handley 2017) was received by this office and, for the purposes of supplementing the Phase I work, this report is determined to be complete and sufficient. As a Potentially Significant Cultural Resource (LDC 3.01.04) site monitoring is required during any and all ground disturbance occurring within the boundaries of site 8SJ441. In lieu of archaeological monitoring, the applicant may set aside an area within the site's boundaries for conservation or use as a passive park. No ground disturbance is to occur within the established conservation/park boundaries.

Information Only:

The cultural resource management firm hired to perform this work shall consult with the St. Johns County Cultural Resource Coordinator prior to fieldwork in order to develop an appropriate field methodology.

Information Only:

Please be advised that due to the archaeologically sensitive nature of the project area, additional monitoring for cultural resources may be required prior to ground breaking and land clearing activities throughout the duration of the proposed development.

Information Only:

Application reviewed by Crystal Geiger, Cultural Resource Coordinator, Environmental Division 904-209-0623, cgeiger@sjcfl.us.

TECHNICAL/TRANSPORTATION DEVELOPMENT

1. Please provide the total number of houses that will access Neck Road if the proposed development is approved. If the total exceeds 200, applicant shall be required to upgrade Neck Road to Minor Collector roadway standards from the point where traffic exceeds 2000 vehicles per day (VPD) to Mickler Road.

7/13/2017 Staff has reviewed traffic analysis provided. By staffs count, the number of developable lots that exist are 33. Using the provided traffic counts and proposed and vacant lots, the trip generation will exceed 2000 at the intersection of Mickler Road and Neck Road. The northernmost portion of Neck Road shall be upgraded to collector, to include turn lanes as well for both east and west bound traffic on Mickler.

3. Paragraph H.2: four feet is the minimum width for sidewalks on local roads proposed within the PUD.

7/3/2017 Revised MDP does not indicate pedestrian connectivity to Neighborhood Park. Please update map to

show pedestrian access.

5. Based upon the traffic generated by the proposed development, in addition to existing safety concerns on Mickler Road, left and right turn lanes shall be required on Mickler Road.

7/7/2017 Applicant states in response to comments that right and left turn lanes on Mickler will be constructed/cause to construct turn lanes. No mention of turn lanes exist in text. Please revise text to indicate applicants intent to construct site access improvements.

Based on staff analysis of the current traffic and added units from project, a left turn lane will be required on Neck Road at the intersection of Mickler and Neck Road, in addition to the turn lanes on Mickler. Please have MDP Map reflect these intersection improvements.

8. Please provide staff with a preliminary grading and stormwater management plan for evaluation that more accurately details the location and size of the stormwater management facilities that will be required to serve the proposed development. The project site appears that it may require stormwater treatment to Outstanding Florida Waters (OFW) standards; which generally requires larger pond sizing. Please also provide the proposed locations of the project's stormwater outfall from said ponds. As well, it is generally accepted by County staff that fill amounts of greater than six (6) inches over a tree's root system will result in the loss of that tree. There are a number of large trees on the site which may be proposed, or required, for protection. Lot and/or roadway layout may need revision (due to fill) once these trees are identified for tree preservation. This information will be utilized to help staff evaluate the proposed project's compliance with the objectives of Section 6.04.06.A of the St. Johns County Land Development Code.

7/7/2017 Please see environmental comment on Specimen Trees. The need for site plan to reflect preservation can drastically change grading plans. As such a preliminary plan will be necessary for staff review at this time.

Information Only:

Comments by: John Burnham, P.E., Chief Engineer; Phone 904-209-0672; Email: jburnham@sjcfl.us.

Information Only:

2. Portions of this property are mapped as Special Flood Hazard Areas (SFHA) and designated as AE. Maps are currently being proposed by FEMA that may impact this designation, and applicant is advised to review them accordingly. All County floodplain management regulations shall be satisfied.

Information Only:

Reviewed by Dick D'Souza, P.E. Phone: 904-209-0792, email: ddsouza@sjcfl.us

COUNTY UTILITY DEPARTMENT

6.) Within Section H.4, please change the sentence that states "Centralized water, sewer and electric service to be provided by the SJCUD." The SJCUD will only be providing the water/sewer.

Information Only:

Reviewed by: Melissa Caraway, SJCUD, 209-2606.

FIRE SERVICES

1. Section H7: The text states this PUD is within 5 road miles of the fire station 1 in Palm Valley. It is roughly 4.5 miles to 1270 Neck Road, which is the last house before this PUD. It does not appear the entire PUD will be within 5 road miles of the fire station. However, if the applicant has a better map showing this distance is met, please submit it for review.

****7/11/17-Section H.6 still states the PUD is located within a five-mile drive from Fire Station 1 (Palm Valley). While it's true the northern end of the PUD is approximately 4.5 miles of FS 1, there will be some homes in the southern part of the PUD that will not be within 5 road miles of the fire station. Please adjust your text accordingly.****

(Information only: Homes outside the 5 road miles would assign the property an Insurance Services Office (ISO) rating of Class 10. ISO's Public Protection Classification (PPC) information plays an important part in the decisions many insurers make affecting the underwriting and pricing of property insurance. ISO analyzes the relevant data and assigns a PPC- grading from 1 (lowest risk) to 10 (highest risk). A higher ISO rating could mean higher homeowner insurance. This information is provided for the consideration of future homeowners. It is important to note, St. Johns County Fire Rescue can and will respond to all properties within the County regardless of the ISO rating.)

5. 7/11/17: New comment due to text change in section G, Design Criteria:

After the Design criteria table, the paragraph for method of measuring setbacks is not meeting LDC 6.03.01. Please adjust your text so it meets LDC 6.03.

Information Only:

Comments by Stephanie Murray, Fire Plans Examiner; 904-209-1742 email address: smurray@sjcfl.us

Information Only:

Please keep in mind NFPA 1, chapter 18 (Fire Dept Access and Water Supply) section 18.4.5.1 Fire Flow Requirements for One and Two Family Dwellings. When dwellings having a fire flow area in excess of 5000 sqft, the fire flow shall not be less than what is specified in Table 18.4.5.1.2. (If the required flow can not be met, then the homes would be required to be protected with an automatic fire sprinkler system.)

ENVIRONMENTAL HEALTH DEPARTMENT

Information Only:

Water and Sewer Availability letter (7/11/17) states SJCUD will provide water and sewer. No impact to E.H. Department of Health.

ENVIRONMENTAL DIVISION

2. Section H.4: This section sets forth allowable activities in the "West Park" area of the proposed PUD. As per Section 4.01.12 of the Land Development Code the county shall, "consider the compatibility of the requested change with the function, operation, and management of the Natural Preserve or Conservation Area." As well the section goes on the state, "The County shall seek the recommendations of the managing agency...holding title to the land prior to the rezoning..."

The proposed activity in the West park includes: multi-purpose fields, grassed play areas, children's play structure, pavilions and shelters, observation deck, docks on the proposed interior lakes and ponds, exercise equipment stations, picnic tables, benches, trails, boardwalks and pathways. These activities can be very intensive requiring regular maintenance and management including the use of pesticides, herbicides and fertilizers. As well, activities are proposed over the basin marshes which are very sensitive wetland communities that are connected to the adjacent GTMNERR property. As per the LDC, please provide an analysis of the compatibility of such uses with the environment. Once received the county will review and provide comments on these activities. Also, please contact the manager of the GTMNERR on these proposed activities for comments from that agency.

Comment 7/12/2017: Section H.3 was formerly Section H.4. This section has now been modified to delete the single common access point to Guana Lake and now reads that there may be an observation deck, boardwalks, and common access point(s) to Guana Lake. As well, there is no information provided on restricting lots adjacent to the Guana Lake

from seeking individual dock permits. With this new information please provide detail on the number and intensity of activities that will take place at or on the Guana Lake area and also the inland wet prairies. Based on the information received, a review will be made and additional comments may be rendered.

4. Section K. This section states "No evidence of any endangered or threatened species were observed." The preliminary natural resource assessment survey submitted is not a comprehensive site inspection. Therefore, please add the following text to Section K: "A 100% survey for gopher tortoises and burrows shall be completed in accordance with FWC regulations. The results of the survey will be provided to St. Johns County and modifications to the development design may be required. As well, a final survey for bald eagle nests and bird rookeries shall be completed in accordance with FWC regulations. The results of the survey will be provided to St. Johns County and modifications to the development design may be required. No construction will take place until these surveys are complete. If discovery of gopher tortoise, bald eagle or bird rookeries on site no construction shall take place until addressed with the Florida Fish and Wildlife Conservation Commission and the County."

Comment 7/12/2017: Section K was updated to include the discovery of one potentially occupied gopher tortoise burrow but it did not include text to detail either the protection of the gopher tortoise on-site or the proper relocation of the animal consistent with Florida Fish and Wildlife Conservation Commission requirements prior to construction. Please provide text that demonstrates how this will be handled prior to development activities.

5. Section N. This section and the MDP map are inconsistent. The MDP map depicts a 50 foot upland buffer along the eastern project boundary to the Guana and the MDP text reads that an average 25 foot upland buffer will be provided for the development. As per the Land Development Code Section 4.01.06 a twenty-five foot wide undisturbed upland buffer shall be maintained around all contiguous wetlands on the property measured landward from the state wetland jurisdictional line, with an additional 25-foot building setback to the upland buffer. Please reconcile.

Comment on the new text and new concept submitted for review 7/12/2017: The new design depicts a 30 foot upland buffer which needs to read, "undisturbed upland buffer" on the lots with a 20 foot area adjacent to the buffer which is labeled "water quality treatment swale". Since both of these features are depicted on what will become the platted lots please discuss the mechanism to prevent a future owner from removing the vegetation of the upland buffer to create a "view" and filling in the treatment swale to eliminate what may be standing water in the yard or to add a feature such as a pool or other single family recreation feature. Please revise all text to read "undisturbed upland buffer".

9. Please label all preserved wetland areas as "Conservation Area" on the proposed MDP map consistent with Section 4.01.06.A of the land development code.

Please remove the future land use map inset on the MDP map.

Comment remains open 7/7/2017: Please label all preserved wetland areas as "Conservation Area" on the proposed MDP map consistent with Section 4.01.06.A of the land development code.

12. On several areas of the property very large trees were observed that may qualify as specimen trees as per section 4.01.05 of the Land Development Code. There is a good possibility that the locations of these trees are in areas that will be impacted by development activities. As per section 4.01.05 LDC specimen trees are to be protected. Therefore please determine the number and location of the specimen trees on the property and locate them, showing preservation to the drip line, on the MDP map as per section 5.03.02.G.2.m. Please also update the text to demonstrate preservation of the specimen trees.

Comment remains open 7/7/2017: The location of specimen trees on property has a direct impact on the site design due to the nature of protecting the specimen trees to their drip line. Since the lots will not be cleared until after the lot is sold and scheduled for development this could have major impacts if a specimen tree is found to be in an area of the lot, such as in the middle, which would render the lot unbuildable. Further, a specimen tree could be located in an area that is designed as a stormwater pond or roadway which again would require a redesign.

Pursuant to LDC Section 5.01.03.C PUDs are to be designed, "...for conservation of desirable natural features and Environmentally Sensitive Areas and minimum disturbance of natural topography." Moreover, LDC Sections 5.03.02.G.1.n and 5.03.02.G.2.m require that the text and maps of the PUD Master Development Plan address tree removal and tree protection, and identify on the MDP map any unique situations of the PUD. Furthermore, DRM Section 10.02 states that applications for PUD rezoning shall provide text and maps consistent with LDC Sections 5.03.02.G and 5.03.02.G.2. As you are aware, it has been the consistent practice of the county to require specimen trees to be identified at the PUD design phase in order to ensure that development areas are designed to avoid the removal of specimen trees (see PUD 13-05, 14-11, 16-10 and 16-16 as some of the many cases where such protocol was consistently applied). Finally, staff directs the applicant's attention to LDC Section 5.00.01 Conservation of Natural Features and Environmentally Sensitive Areas which provides in pertinent part: "Development Plans (Subdivisions, Site Plans, PUDs, PRDs, etc.) shall be designed to conform to and take advantage of topographic and other natural features of the land, including the conservation of existing Trees, Wetlands, water bodies, and Environmentally Sensitive Areas as required by law, rule and Article IV of this Code. Environmentally Sensitive Areas shall be shown on the Development Plan."

Therefore please determine the number and location of all specimen trees on the property and locate them on the MDP map by depicting preservation to the drip line consistent with section 5.03.02.G.2.m. This may require a re-design of the project to ensure future construction does not impact the specimen trees. Please also update the text to demonstrate preservation of each specimen tree found onsite.

Information Only:

Application reviewed by Jan Brewer, Growth Management- Environmental, (904) 209-0617 jbrewer@sjcfl.us

Information Only:

8. As per Comprehensive Plan Policy E.2.8.7, Development of vacant lands adjacent to Outstanding Florida Waters, Aquatic Preserves, Wildlife Sanctuaries, State Preserves, Sanctuaries, National Estuarine Research Reserve and Wildlife Management areas shall be designed to a scale and intensity which is consistent with the existing adjacent uses pursuant to the adopted Land Development Regulations (LDRs) and shall be required, at a minimum, to meet all applicable Federal, State and Local drainage and water quality standards. Except for a very small northerly portion, this project is surrounded by the Guana, Tolomato, Matanzas National Estuarine Research Reserve whose waters are Outstanding Florida Waters. Please discuss how the scale and intensity of this proposed project is consistent with the existing adjacent GTMNERR.

Comment 7/13/2017: Although the applicant has committed to providing the minimum required standards for development staff still has concerns with the potential for adverse impacts on the public lands that surround this project. The GTMNERR and the Guana Wildlife Management Area have the potential for impact with light, noise, runoff, loss of habitat and other kinds of issues that come with residential development.

OFFICE OF COUNTY ATTORNEY

2. Section G.1 (second paragraph) - MDP text indicates that this community is intended to be a gated community with private roads. Pursuant to LDC Sec. 7.00.04, "Any sign ...within gate communities and similar places, visible only to those Persons visiting such a place and not visible from a public street, public sidewalk, or public right-of-way or from a navigable waterway or body of water." is exempt from Article VII of the Land Development Code.

Proposed directional signage exceeds the amount provided for in LDC 7.02.06.B, which is limited to three (3) feet of ADA and three (3) feet in height. As these proposed signs are internal to the gated community, they would be exempt from Article VII. To avoid confusion, please state that "Within the gated community with privately owned and maintained roads, various locational, directional, model home, traffic control...".

Information Only:

Paolo S. Soria, Assistant County Attorney
500 San Sebastian View, St. Augustine, FL 32084
904) 209-0805 Office / (904) 209-0806 Fax / psoria@sjcfl.us

Information Only:

3. Planning and Zoning Agency and Board of County Commissioners will make the factual determination if the applicant has presented competent substantial evidence such that the application is consistent with the goals, objectives, and policies of the Comprehensive Plan (including policy A.1.11.5) and the procedural requirements of the Land Development Code. If the Board, after recommendation by the PZA, makes the determination that the applicant has not met this initial burden, then the proposed Planned Unit Development will require a comprehensive plan amendment for approval of the planned unit development.

BUILDING

Information Only:

All or part of this project is located in a Flood Zone, contact your design professional for permit and construction requirements. If the development is greater than 5 acres or 50 lots and contains an "A" flood zone all BASE Flood Elevations must be determined by way of a flood study.

All flood zones must be overlaid on a site plan showing the location of all parcels and flood zones.

Information Only:

James R Schock PE, CBO. CFM
4040 Lewis Speedway, St. Augustine, Fl. 32084
904-827-6806

Information Only:

The AE flood zone BFE is increasing in this area. Construction must comply with most stringent BFE requirements

RECREATION

Application reviewed and signed off.

DEED CHECK

Information Only:

Ownership verified through review of St. Johns County Property Appraisers Records.

Information Only:

Authority for Drew D. Frick to sign for Ponte Vedra Corporation verified through State of Florida, Division of Corporations search.

Information Only:

Legal description closes mathematically and is acceptable for the purpose of this application.

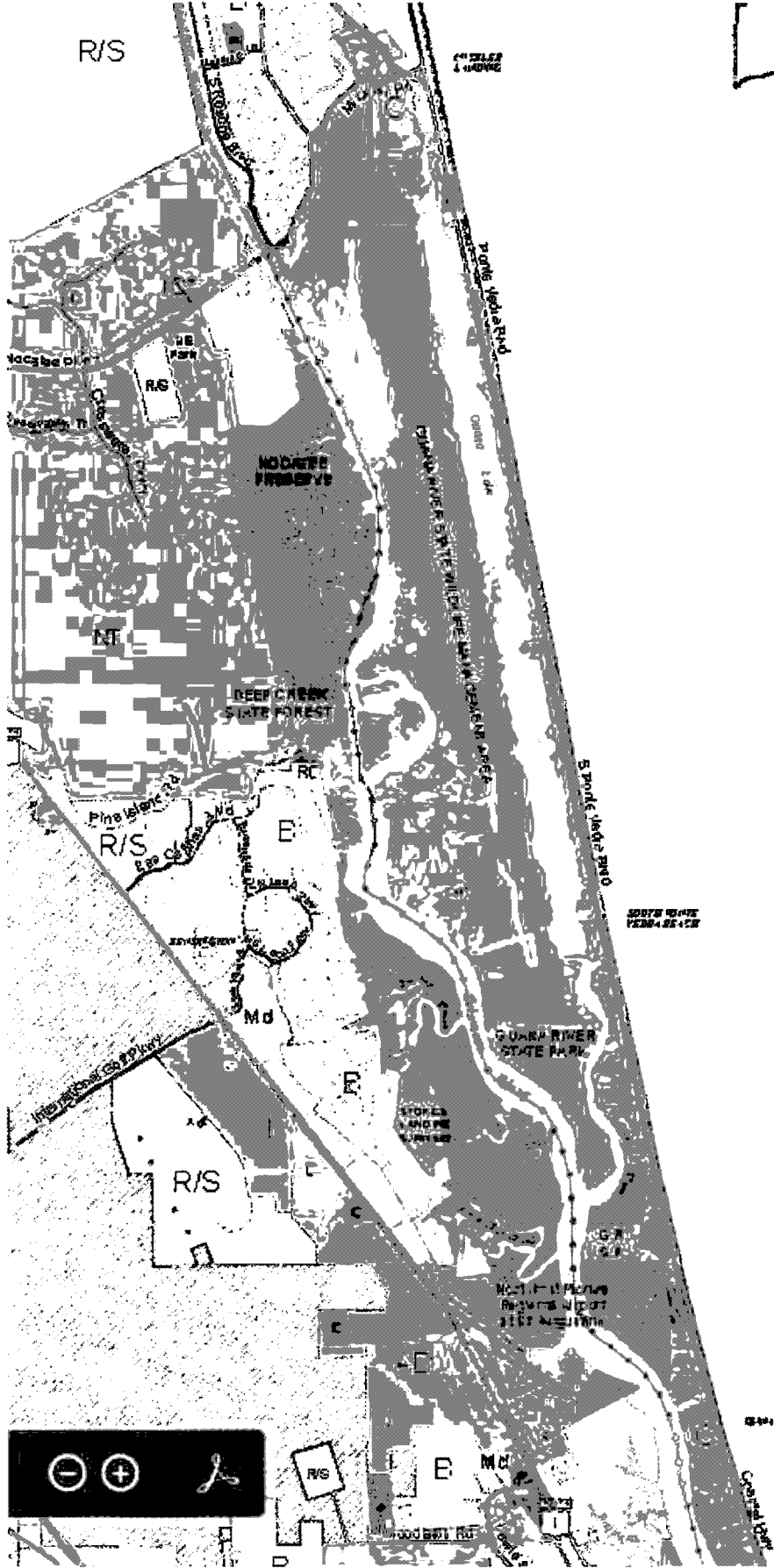
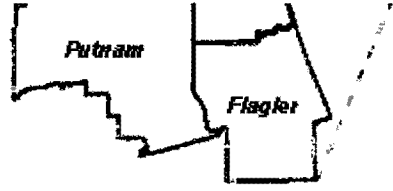
Information Only:

Debbie Willis, GISP. GIS Analyst. 904-209-0609 (Office). 904-209-0610 (fax). dwillis@sjcfl.us

NEIGHBORHOOD SITE PLAN REVIEW

Information Only:

Lisa Brown
Application Review Supervisor, Growth Management
Email: lbrown@sjcfl.us
904.209.0692



Legend

- Coastal Corridor Boundary
- Urban Service Area
- Development Areas
- Railway Line
- Interstate Freeway
- Primary Road
- Major Road
- Minor Road
- Local Road
- Residential - A
- Residential - B
- Residential - C
- Residential - D
- Commercial
- Community Commercial
- Neighborhood Commercial
- Rural Commercial
- Intensive Commercial
- Business Commerce
- Mixed Use District
- Industrial
- Airport District
- Public
- Parks/Recreation
- DRI - Prior to 1990 Comp Plan
- Cities and Towns
- Rural Silviculture
- R/S Owned by SJRWMD
- Agriculture
- Conservation
- New Town
- Town Center Mixed Use District



RECEIVED

JUL 11 2016

COUNTY ATTORNEY

Writer's Direct Dial: (904) 350-7401
Writer's E-Mail Address: lpappas@gunster.com

July 11, 2016



Hand Delivered

Michael D. Wanchick
County Administrator
500 San Sebastian View
St. Augustine, Florida 32084

**Re: Parcel 069515-0000/ The Outpost
VOLUNTARY DISMISSAL OF APPEAL**

Dear Mr. Wanchick:

Ponte Vedra Corporation, through undersigned counsel, hereby gives notice of voluntarily dismissing the appeal it initiated by notice of appeal dated September 26, 2014 (a copy of which is attached). This notice is being contemporaneously filed with your office (as the designated method of filing per the County Code) and a courtesy copy provided to the County Attorney.

This dismissal is without prejudice to Ponte Vedra Corporation's previously stated position concerning the meaning of the Conservation land use designation applicable to the referenced property.

As discussed during our recent meeting, Ponte Vedra Corporation will apply for a PUD approval under the existing land use designation. This will obviate the procedural dispute preserved by the County in the existing stay stipulation, and allow the County Commission to more efficiently assess the Comprehensive Plan consistency of Ponte Vedra Corporation's proposal in the context of deciding the PUD application.

Very truly yours,

M. Lynn Pappas
Florida Bar Number: 220371

MLP/dwd
Attachments
cc: Patrick McCormack (via Hand Delivery)



St. Johns County Growth Management Department

Application for: Rezoning

Date 07-11-16 Property Tax ID No 069515-0000

Project Name Vista Tranquilla

Property Owner(s) Ponte Vedra Corporation Phone Number

Address P.O. Box 405 Fax Number

City Ponte Vedra Bch State FL Zip Code 32082 e-mail

Are there any owners not listed? [X] No [] Yes if yes please provide information on separate sheet.

Applicant/Representative Tony Robbins, AICP c/o Prosser, Inc. Phone Number 904-739-3655

Address 13901 Sutton Park Drive South, Suite 200 Fax Number 904-730-3413

City Jacksonville State FL Zip Code 32224 e-mail trobbins@prosserinc.com

Property Location Southern terminus of Neck Road, west of State Road A1A

Major Access Neck Road Size of Property 99.3 Cleared Acres (if applicable)

Zoning Class OR No. of lots (if applicable) 77 Overlay District (if applicable)

Water & Sewer Provider SJCUD (agreement with JEA to serve project) Future Land Use Designation C-RES

Present Use of Property Lodge Proposed Bldg. S.F.

Project Description (use separate sheet if necessary)

A proposed single-family residential Planned Unit Development ("PUD") that acknowledges the sensitivity of the adjacent Guana Wildlife Management Area and includes protective measures to avoid any adverse impacts. The PUD is located in northeastern St. Johns County at the southern terminus of Neck Road and shall be developed entirely outside the Coastal High Hazard Area. The PUD will be designed to be compatible with both existing surrounding areas and maintain a character of development that compliments the existing and future residential uses in the vicinity.

Please list any applications currently under review or recently approved which may assist in the review of this application including the name of the PUD/PRD:

I understand that reasonable inspections of the subject property may be made as part of the application review process. I understand that any material misrepresentations or errors contained in this application or supporting documents may void an approved application, at the reasonable determination of the County considering the Land Development Code, Comprehensive Plan, and other applicable regulations.

I HEREBY CERTIFY THAT ALL INFORMATION IS CORRECT; Signature of owner or person authorized to represent this application:

Signed By [Signature]

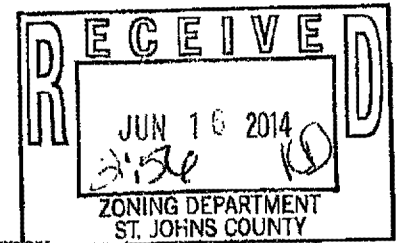
Printed or typed name(s) Tony Robbins, AICP



GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Writer's Direct Dial number: (904) 354-1980
Writer's E-Mail Address: lpappas@gunster.com

June 16, 2014



Teresa Bishop
St. Johns County Planning Director
4040 Lewis Speedway
St. Augustine, Florida 32084

Patrick McCormack
St. Johns County Attorney
500 San Sebastian View
St. Augustine, Florida 32084

Suzanne Konchan
St. Johns County Growth Management Director
4040 Lewis Speedway
St. Augustine, Florida 32084

Michael D. Wanchick
County Administrator
4040 Lewis Speedway
St. Augustine, Florida 32084

Re: Parcel 069515-0000/The Outpost / Application for Administrative Interpretation

Ladies and Gentlemen:

Our firm has been engaged to represent the Ponte Vedra Corporation, the owner of the above referenced property, a map of which is **Attachment 1** (the "Property"). The Property lies immediately south of lands developed as residential single family along Neck Road with a land use designation of Residential C. Immediately south of the Property and to the east and west of the Property and Neck Road lies the Guano Tolomato Matanzas National Estuarine Research Reserve ("NERR") with a Comprehensive Plan land use designation of Parks and Open Space. According to the St. Johns County 2025 Comprehensive Plan Future Land Use Map, the color coding of the "Conservation" land use designation has been applied to the Property. A copy of the St. Johns County Future Land Use Plan 1990 – 2005 Map (Attachment 1-A) provided to us by County staff evidence that the origin of the Conservation designation appears to be based upon erroneous data from satellite imagery which assumed the entire Property as jurisdictional wetlands. As this letter will indicate, that assumption is incorrect and the appropriate regulatory jurisdictional determination is supplied.

On July 16, 2013, Susan Bloodworth, on behalf of Ponte Vedra Corporation, submitted a letter request to the Planning Director requesting the County (i) provide an administrative

June 16, 2014

Page 2

interpretation identifying the precise boundaries of the Conservation land use designation as applied to the Property consistent with the provisions of the Comprehensive Plan and (ii) extend the Residential C land use category of the abutting property to the upland portions of the Property that are not appropriately designated as "Conservation." A copy of that letter is attached as **Attachment 2** and included a copy of wetlands site assessment information prepared by Environmental Resource Solutions, Inc. After several meetings with County staff regarding the letter request, the conclusion communicated verbally to our client by Mr. McCormack was that no clarification of the limits of the Conservation land use designation would be provided by staff and that the property owner should instead seek a Comprehensive Plan land use amendment for the Property.

This application for administrative interpretation requests clarification as to the appropriate limits of any Conservation land use designation upon the Property following procedures and guidance set forth in the Comprehensive Plan relating to the Conservation land use designation. Policy A.1.11(d) of the Comprehensive Plan describes Conservation land use designation in relevant part as follows:

Conservation shall mean lands, wetlands and tidal marsh along with adjacent upland islands and other areas as designated on the Future Land Use Map. Due to their sensitive environmental qualities, only very low intensity uses shall be permitted, subject to all regulatory permitting requirements.

Policy A.1.11.5 specifically defines how boundaries of land uses are to be determined on the Future Land Use Map. With regard to the Conservation land use designation, it mandates as follows:

The landward boundary of tidal marsh designated Conservation shall be the mean high water line and shall also include those upland islands located waterward of mean high water line of the tidal marsh. The exact landward boundary of other areas designated Conservation lands on the Future Land Use Map shall be determined by a field survey performed pursuant to applicable regulatory requirements. [emphasis added]

The County Future Land Use Map also includes a specific notation: "Areas designated Conservation are approximate in nature and the exact boundary shall be determined by an environmental survey established pursuant to applicable regulatory requirements." Clearly, a field survey of the upland areas of the Property is appropriate and required.

The supporting data attached to the Future Land Use Element on page 19 supports our request. It states: "Conservation areas are wetlands and tidal marsh and the associated upland islands and other areas that may be designated on the Future Land Use Map ... It is anticipated

that the exact boundaries will be established pursuant to an environmental site survey and such Conservation areas shall be established pursuant to the survey and applicable regulatory requirements." The intent of the Comprehensive Plan is clearly stated and repeated in three separate and distinct instances in a consistent manner. There is no ambiguity in the intent or the language.

The position taken by the County that the Ponte Vedra Corporation should apply for a land use amendment to resolve the limits of the Conservation designation is simply nonresponsive to the original request made by Ms. Bloodworth and reiterated herein. Further, it is tantamount to a position that no clarification of the limits of Conservation by "field survey" is necessary or warranted, in direct contradiction of and therefore inconsistent with, the plain language of the Comprehensive Plan. Since the text of the Comprehensive Plan makes it clear that the actual boundaries of Conservation are to be limited to those boundaries established by the field survey, there is nothing to "amend" with respect to the remaining property nor does the Comprehensive Plan contemplate that any "amendment" to the Future Land Use Map is necessary or appropriate to so limit the scope of the Conservation land use designation, as identified by field surveys.

In furtherance of the procedures set forth in the Comprehensive Plan to establish the limits of the Conservation designation on the Property, we have included with this letter two surveys of the Property performed by Clary & Associates. The first is a copy of the Special Purpose Survey for Jurisdictional Determination approved by the St. Johns River Water Management District, **Attachment 3**, applicable to the Property. The second is a Boundary Survey showing the limits of the Guano Lake Line of Demarcation between uplands areas above and below the "Landward Extent of Waters of the State," **Attachment 4**. These combined field surveys demonstrate the limits of jurisdictional wetland areas and maximum landward limits of State ownership at the Guano Lake boundary and have been performed pursuant to all applicable regulatory requirements. Based upon the surveys enclosed and as provided in the Comprehensive Plan, the County must supply a written confirmation of the boundaries of the Conservation land use designation applicable to the Property consistent with the limits of the landward extent of Waters of the State and the lands lying upland of the jurisdictional wetland line as established on the enclosed survey and Jurisdictional Determination.

Consistent with the plain language contained in the Comprehensive Plan, we know of at least two instances in which the County has previously interpreted the Plan to direct a field survey to establish the limits of Conservation land use designation. By letter dated April 8, 2003, the Planning Director confirmed that upon receiving an environmental survey to depict the location of the conservation area, the staff would "determine the limits of Residential C and Conservation designation." A copy of that letter is attached as **Attachment 5**. In addition, the Planning Department issued a staff report on February 6, 2003 pertaining to a rezoning for North River Island REZ-2002-30, **Attachment 6**, wherein the County determined that the existing Future Land Use designation of the property was Residential C Coastal consistent with the

June 16, 2014

Page 4

adjacent land use designation, although it had been mapped "Conservation" on the Land Use Map. In describing the existing Future Land Use, the County staff report stated as follows: "Future Land Use: Residential C Coastal [areas designated Conservation are approximate in nature and the exact boundary shall be determined by environmental survey and established pursuant to applicable regulatory requirements.]" Based on the submission of a mean high water line survey, the limits of Conservation land use were interpreted by the County staff consistent with the mean high water line and the property was then rezoned from Commercial Highway Tourist to Residential Single Family RS3. So, in each instance, one by virtue of a letter request and the second in connection with processing an application for rezoning, County staff issued interpretations of the appropriate limits of the Conservation land use designation following the above referenced procedures set forth in the Comprehensive Plan and without the necessity of a Comprehensive Plan land use amendment.

It is also important to note that Policy 1.1.11(d) defining the Conservation land use designation specifically identifies "sensitive environmental qualities" as the basis for the designation. Yet, the Environmentally Sensitive Lands Map, part of the FLUM series incorporated into the Comprehensive Plan, does not identify the Property as included within any of the twelve (12) identified categories of Environmentally Sensitive Lands. Therefore, a Conservation designation of the entire Property would not be based on data and analysis as to environmentally sensitive lands contained in the Comprehensive Plan. We are concerned that the County may assert such a designation on 100 acres of uplands in private ownership due to its proximity to the lands within the NERR. There is nothing in the Comprehensive Plan that supports "proximity" as the basis for a Conservation land use designation. Were it to be so, all private landowners in proximity to the NERR should be concerned about such a potential designation adversely impacting their valuable upland ownership.

The history of the NERR acquisition is germane to this request. In 1983, Gate Petroleum Company ("Gate") purchased the entity owner of all of the 13,820 acres of land presently within the NERR. Soon thereafter, its principal, Mr. Herbert Peyton, worked with the State of Florida to facilitate public acquisition of those lands for perpetual protection as conservation lands foregoing all future appreciation in such lands. The Property was the one parcel retained by a Gate subsidiary, Ponte Vedra Corporation, for the benefit of future appreciation. It was the intent of Ponte Vedra Corporation to develop the Property at an appropriate time. Surely, the efforts of Mr. Peyton and Gate to facilitate the permanent protection of thousands of acres of valuable oceanfront estuarine lands, with retention of a small portion that was not environmentally sensitive for development, is a satisfactory commitment to the overall Conservation objectives of the County.

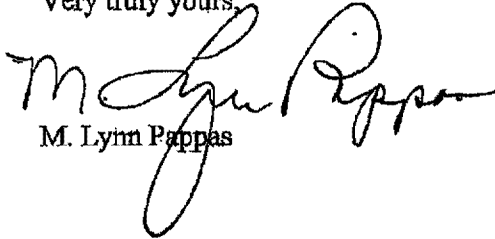
In light of the extended period of time since the original request from Ponte Vedra Corporation, we would appreciate a written response to this application for an administrative interpretation of the limits of Conservation land use designation and Residential C land use designation within two weeks of the date of this letter. Once these limits have been determined

June 16, 2014
Page 5

for the Property, we understand that remaining applicable provisions of the Comprehensive Plan and Land Development Code would apply to applications for development approvals pertaining to the developable portion of the Property pursuant to the Residential C land use classification.

We have enclosed a check in the amount of \$105.00 for the fee for administrative interpretation by the County published rates. Thank you for your immediate attention to this matter.

Very truly yours,



M. Lynn Pappas

MLP:jl