

EXHIBIT C

**POSITION OF OWNER ASSOCIATION
INTERVENORS**

Michael D. Chiumento
Michael D. Chiumento III
Paul M. Guntharp, Jr.



CHIUMENTO
& GUNTHARP P.A.
ATTORNEYS AT LAW

145 City Place, Suite 301
Palm Coast, FL 32164
Telephone: (386) 445-8900
Fax: (386) 445-6702
Website: www.palmcoastlaw.com

SENT VIA EMAIL & FIRST CLASS MAIL

November 24, 2010

Scott A. Glass, Esq.
Shutts & Bowen, LLP
P.O. Box 4956
Orlando, FL 32802-4956

Wayne E. Flowers, Esq.
Lewis, Longman & Walker, PA
245 Riverside Ave.
Suite 150
Jacksonville, FL 32202-4924

RE: Ginn-La Marina, LLLP, LTD, et al. v. Flagler County, et al.
DOAH Case No: 10-9137

Gentlemen:

As we all know, Ginn and my clients have been in discussions about the NOPC since May 2009. Since that time we have had hours and hours of discussions, negotiations and counter proposals concerning Ginn's requested redevelopment of the golf course property. As of October 1, 2010, the parties were exchanging a Memorandum of Understanding trying to finalize these terms which would eventually get turned into a formal, binding settlement agreement. Because of the timeframes and frustration between the respective parties, settlement discussions at that time stopped.

Last week the parties to the action met at the Pre-Hearing Conference. Among other things discussed was potential settlement. Ginn subsequently submitted its Proposal of Settlement to the County. After review of Ginn's proposal, my clients were somewhat dumbfounded. Specifically, my clients found it to be a major retreat from where the parties were in October. Moreover, part of the settlement agreement actually retreats from where the County was at the April 5, 2010 hearing. In light of the above, my clients need additional time to provide a counter-proposal due to the complexity of issues, as well as our governing processes. Therefore, we are not able to provide a counter-proposal at this time.

We have, however, reviewed Ginn's proposal and spent a significant amount of time analyzing their numerous requests. Our evaluation, questions and comments to Ginn's proposal is attached

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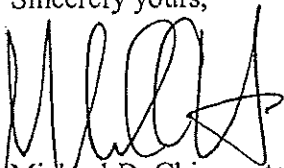
hereto. Our analysis is quite detailed and for purposes of simplicity, the following are our major concerns.

1. The proposal increases building height and provides a floor area ratio that would allow residential building stories of approximately 130,000 square feet (about twice the size of anything yet proposed).
2. There is nothing in Ginn's proposal that would protect or preserve view shed corridors.
3. The proposal's idea for fractional ownership is unclear given that the company reference does not reflect the parties prior discussions.
4. The proposal to that architectural feature exceed 33% of the building footprint would allow a new total building height of approximately 97 feet.
5. The proposed amenity structure adjacent to the south pool deck proposes to add 25 feet in height above the prior agreed to limitations.
6. The proposed setbacks of 40 feet and 25 feet respectively are significantly less than what was discussed at the April 5th hearing.
7. The proposal lacks any enforceable or binding criteria on the developer, but rather continues with vague, ambiguous promises into the future.
8. The proposal's reduction in units from 300 to 289 could still result in a density on the new cluster exceeding 24 units per acre which would be more dense than any other cluster currently permitted or developed within the entire DRI.

As you can see, Ginn's proposal leaves a lot to be desired. My clients assert that it is a retreat from where the parties were as of October 1, 2010. Moreover, Ginn fails to put binding or enforcement language into the agreements. Because of this, my clients are cautiously evaluating the situation. A counter-proposal (if any) would be predicated on a clear resolution of the issues identified herein.

As always, we thank you for your cooperation. We will be in attendance at the December 2, 2010 BOCC Workshop. In the interim, should you have any questions, please call me at your convenience.

Sincerely yours,



Michael D. Chiumento III

MDC:ks

Encl.

cc: Steve Geller
Al Hadeed
Ken Neu
Jack Fretz

Michael D. Chimento
Michael D. Chimento III
Paul M. Guntharp, Jr.



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& GUNTHARP P.A.
ATTORNEYS AT LAW

145 City Place, Suite 301
Palm Coast, FL 32164
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Fax: (386) 445-6702
Website: www.palmcoastlaw.com

MEMORANDUM

To: Al Hadeed, Scott Glass, Wayne Flowers, Steve Geller
From: Michael Chimento
Date: November 24, 2010
Subject: Reynolds Proposed Settlement Agreement

We reviewed the Proposed Settlement Agreement Exhibit C – Developer Commitment to Flagler County. From our meeting last Wednesday, we understood that the developer desired to enter into settlement discussions. We expected that the Proposed Settlement Agreement (“Proposal”) would offer some concessions and compromise and that there would be some movement in our direction. The only concession we find in the document is the reduction in proposed units for Cluster 35 from 300 units to 289 units. Otherwise, the Proposal appears to increase heights, decrease setbacks and suggest an extremely dense development on the platted golf course lands. We are working to develop an alternative proposal that we would be willing to accept, but in the interest of time and interaction, we decided to outline some of our comments and concerns for you to consider in the interim.

The relevant portions of the Reynolds document are produced in whole in *grey italic text* below. Our annotations appear in black text (as does this introduction). Emphasis is added by underlining.

GINN PROPOSAL #1 (sec 1.a.ii):

Cluster 35 Characteristics

(a) *Dwelling Units.*

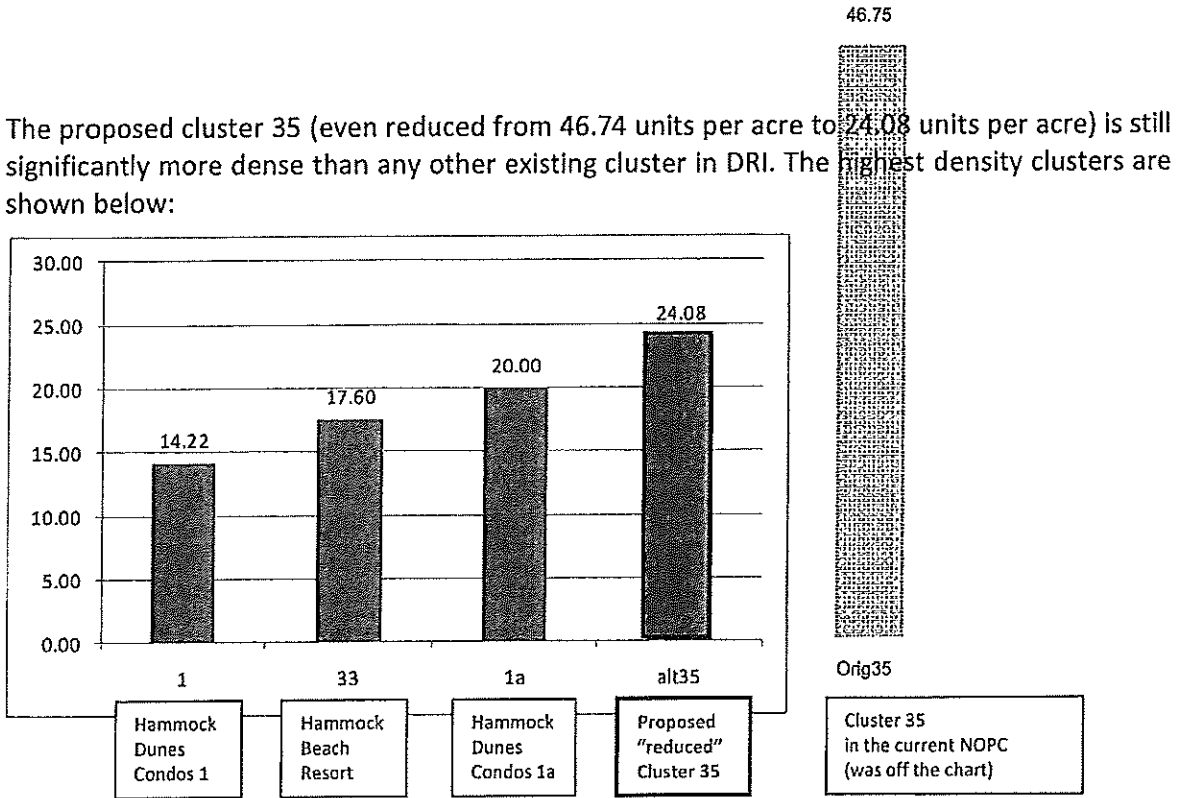
(i) *Quantity.*

- (ii) *Maximum Units within Cluster 35. The Developer agrees that no more than 289 units may be built within Cluster 35. This reflects the Developer’s reduction of the NOPC-proposed density by 272 units.”*

RESPONSE: On numerous occasions, Ginn indicated that it never intended to build the 561 units on the Golf Clubhouse/Lodge site. Rather, Ginn represented that it only needed to “park” this larger number of units somewhere in the development to preserve them for future use outside the DRI property.

The request for 289 units on the proposed Cluster 35 would create a density of 24.08 units per acre. This density would be the highest approved density in the entire DRI; more dense than the neighboring Cluster 33 (the Big House); more dense than Cluster 1a (the highest density cluster in the DRI); and more dense than cluster 1 (the remaining Hammock Dunes condos).

The proposed cluster 35 (even reduced from 46.74 units per acre to 24.08 units per acre) is still significantly more dense than any other existing cluster in DRI. The highest density clusters are shown below:



GINN PROPOSAL #2 (sec 1.a.iii): *"Allocation of Units to Cluster 35. The Developer intends to request a transfer of development rights to transfer the remaining 272 units to property outside of the DRI. To effectuate this transfer it may be necessary to temporarily "park" these entitled units within Cluster 35. If that proves to be the case, then the reallocation of units to Cluster 35 shall be 541, rendering the total allocated units in Cluster 35 as 561; however, the Developer shall be prohibited from seeking or obtain building permits for more than 289 units as referenced in paragraph 1.(a)(ii). The Developer will work with Flagler County to effectuate the transfer of the 272 units to property(ies) outside of the Hammock Dunes DRI as soon as possible."*

RESPONSE: We do not care if the County grants the developer a right to transfer the units to another site, as long as it does not involve further use of the platted golf course lands or Hammock Dunes DRI property.

GINN PROPSOAL #3 (sec 1.a.iv): *"Type. The Developer may create fractional ownership and private residence club homes ("Fractional Residences") within Cluster 35; however, Fractional Residences shall be limited to only top tier products comparable to, or at the same level, as the following branded*

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products, which shall serve as a standard of quality for Fractional Residences:

(A) *Ritz Carlton Destination Club™*

(B) *Hilton Grand Vacations™*

(C) *Westin Premier Destinations™*

(D) *Marriott Elite Vacation Club™*

RESPONSE: At this time, we reject the proposal for any type of fractional ownership. Such prohibition was addressed in the previous NOPC's, D.O Amendments and BOCC meetings. Moreover, our research indicates that only Ritz Carlton is a destination, fractional share provider. Hilton appears to be a typical timeshare company. While, information on the Westin and Marriott providers cannot be found.

GINN PROPOSAL #4 (sec 1.a.v.A): *"Size; Dwelling units shall not be limited in size or configuration except with respect to compliance with Flagler County codes."*

RESPONSE: We are inclined to insist on a minimum of 450 sf per unit which the developer has this week indicated it intends to develop. We would be interested to know where any of the above fractional residence developers has utilized units of this relatively small size.

GINN PROPOSAL #5 (sec 1.a.v.B): *"Floor to Area Ratio Limitation. Developer recognizes that it is the desire of the County and the Associations, to the degree the same is geographically and economically feasible, to preserve as much view shed across Cluster 35 as is reasonably possible. To this end, Developer agrees Cluster 35 residential buildings shall not be limited in size except with respect to height, as provided elsewhere in this proposal, and with regard to building Floor-To-Area Ratio ("FAR") for elevated stories. The maximum FAR for residential building stories above the first building level shall not exceed 25% of the total Cluster 35 area, which shall apply to each elevated level. The limitation on FAR should result in a preservation of view corridors and Developer, for itself and its successors in interest, acknowledge that the reasonable preservation of view corridors shall be a significant factor in the ultimate design of the building(s) to be located on Cluster 35. Actual design shall ultimately be vetted through the Flagler County review and public hearing process."*

Response: We are very concerned about the impact on views from existing condominiums and single family homes. The FAR proposed here does little to protect views and would allow residential building stories with an area of 130,680 sf (25% of 12 acres). This is an extremely large floor plate; far larger than anything anticipated by our earlier negotiations with the developer. The largest floor plate previously discussed by the developer was on the order of 68,450 sf. The proposed FAR is unacceptable. The earlier 68,450 sf. floor area was unacceptable if it runs from north to south without opening, relief, view shed or height reduction. Solving all of the development density and view concerns will likely require some height reduction (below the 77 foot maximum) on some parts of the site or the provision of openings in the development for views.

GINN PROPOSAL #6 (sec 1.b.i): *"Meeting space and ancillary amenity structure(s) outside of the Residential building(s). The Developer may construct additional structure(s) in the general vicinity of the Lodge parking lot, depicted on Map C.1 as "Amenity Area", for uses to include additional meeting/conference space, enlarged ballroom space, specialty retail, and other amenities."*

RESPONSE: In all prior discussions with the developer, the proposed "amenity" structure was explicitly limited to the paved area of the parking lot, not the "general vicinity of the Lodge parking lot."

GINN PROPOSAL #7 (sec 1.b.ii): *"Developer will use good faith efforts to locate HVAC equipment or other functional supporting equipment associated with the conference and meeting space structure(s) on the ground level. If unreasonable, cost prohibitive, or conflicts with site improvements prevent locating supporting equipment on grade, it may be located on the roof or elevated levels provided the Developer screens the equipment to minimize its view from adjacent property owners."*

RESPONSE: It is only marginally helpful to screen HVAC or other equipment from view from the existing condominiums if the equipment and its screen blocks the residents' views of the golf course and ocean from the dwelling units. HVAC or other equipment must not be placed on the roof.

GINN PROPOSAL #8 (sec 1.b.iii): *"Developer will confer with, and elicit input from, the Associations and other interested parties, including members of the public to address concerns of architecture, aesthetics, and buffering. If constructed, these structure(s) could afford, and may also provide connectivity, between Ocean Towers Phase IV structures to residential and amenity structures located within Cluster 35."*

RESPONSE: Map C.1 still shows separation between the Ocean Towers structures and the new amenity structure. If they are going to be connected, they should be shown as connected. How do the proposed setbacks allow connectivity?

GINN PROPOSAL #9 (sec 1.c.i): *"Golf related buildings, amenities and uses. Structures supporting golf operations are not restricted in their location within the golf course. This provision shall not change with the creation of Cluster 35."*

RESPONSE: We are confused by this language. Please further explain its intent or clarify.

GINN PROPOSAL #10 (sec 1.c.ii): *"It is the intent of the Developer to work with the Nicklaus organization to ensure that the "Signature Course" designation is not placed in jeopardy by any future construction on the platted golf course property."*

RESPONSE: This is a very important issue to my clients and the entire community. A failure to maintain the Nicklaus Signature Course designation would likely result in decreased real estate values across the entire development. The home owners groups and club members will not support any change

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if it might result in the loss of the signature status. Any change will be predicated on the continuation of the signature status.

We are inclined to request that a preliminary opinion regarding the compatibility of the proposed development with signature status from the Nicklaus organization before executing any agreement.

GINN PROPSOSAL #11 (sec 1.d.A.a):

(a) Buildings.

(i) Siting and Location.

(A) Residential and non-golf course related amenities and facilities.

(a) Map C.1 provides a sketch plan of the building structure area, reflecting minimum setbacks. Setbacks from the boundary of Cluster 35 applicable to any building, other than an amenity or recreation building consisting of one (1) story or less, shall be as follows:

(i) East – 100 feet from property boundary;

(ii) West

1. Adjacent to Ocean Towers – 0 feet from property boundary;

2. Contiguous to Hammock Beach Club Condominium – 40 feet from property boundary;

(iii) North:

1. Adjacent to 18th hole – 100 feet from green or 40 feet from property boundary, whichever is greater;

2. Adjacent to Hammock Beach Club Condominium – 40 feet from property boundary;

(iv) South

1. Adjacent to realigned 16th Road – 25 feet from property boundary; and

2. Adjacent to 9th hole – 150 feet from green.

RESPONSE: As for the East boundary, this is not so much a setback as an acknowledgement of the Coastal Construction Control Line (CCCL) east of which the Florida DEP is very unlikely to allow such intense development. As for the West boundary, if the meeting rooms and parking are to be connected to the Ocean Towers structure the property line should be moved. As for all other proposed setbacks, Ginn's proposal is dramatically smaller than the 100 ft recommended by the County staff and are unacceptable. In addition to setbacks, we are inclined to require some viewshed protections in the form of either height reductions or building spacing requirements, or both.

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GINN PROPOSAL #12 (sec 1.d.i.A.b): *"The Parties acknowledge and agree that the specific location, size, scale, shape, orientation, and building geometry will be defined in successive stages of entitlement and development as provided for by applicable Flagler County ordinances and shall be consistent with the terms presented herein."*

RESPONSE: We are acutely aware of the problem of the successive stages of entitlement and development. Our over-riding concern in these negotiations is to assure that any entitlement conferred on the developer by this agreement is tempered by enforceable conditions that ensure that the views from existing condominiums and single family homes are respected and protected in the future; and that the character of the community as a whole not be dramatically altered. After the developer has their entitlements, it will be too late to object. We need specific, enforceable conditions on the future development.

GINN PROPOSAL #13 (sec 1.d.i.B): *16th Road.*

- (a) Map C.1 depicts the relocation of the existing 16th Road right of way and associated improvements.*
- (b) The Parties agree that it is in the interests of the Parties to relocate the 16th Road right of way. The Parties will use good faith efforts to seek approval from jurisdictions having authority for 16th Road's relocation in the general alignment represented by Map C.1.*
- (c) The Parties agree that it may be more preferable to the Associations and Developer for the vacation of the 16th Road right of way to occur rather than relocation. The Parties agree to use good faith efforts to vet the feasibility of the vacation of 16th Road.*

RESPONSE: We support the vacation of 16th Road.

GINN PROPOSAL #14 (sec 1.d.ii): *"Golf related amenities and facilities; The Developer, in his sole and absolute discretion, subject to applicable laws and codes, may construct golf related amenities and facilities within the golf course area rather than incorporating such uses into structures within Cluster 35. As previously indicated, if such facilities are constructed on the platted golf course property they will not be constructed on a location that would threaten the integrity of the course or its Nicklaus "Signature Course" designation."*

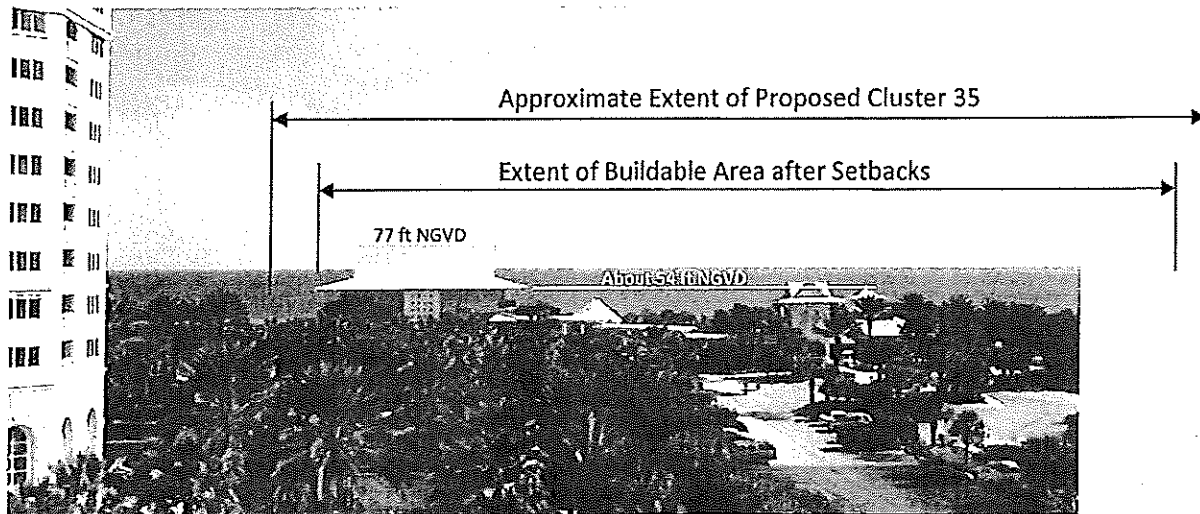
RESPONSE: We believe that the area of the existing Hammock House is the appropriate location for the golf clubhouse if it is not incorporated into the other facilities on cluster 35.

GINN PROPOSAL #15 (sec 1.d.iii.A): *"Height; (A) Residential Structures. Structures located within Cluster 35, depicted in Map C.1 as "Residential Area", shall not exceed the height of the current Ocean Course Lodge main building (approximately 77± feet net geodetic vertical datum), except as otherwise provided herein.*

RESPONSE: The exception noted here is for "architectural features" (detailed below). The original "voluntary" restriction on height in cluster 35 did not have the exception noted here. The developer originally agreed to build no higher than the existing Lodge (or 77 ft NGVD). All of the architectural features of the existing Clubhouse/Lodge are contained within its height of 77 feet NGVD. The same should be true of the proposed new building.

The existing Clubhouse/Lodge is of an architectural design that prominently features a very large and visually dominant roof. The eave of the Lodge is at about 54 ft NGVD; so the architectural feature of the impressive hip roof utilizes about 23 feet of the total height of the building. The developer would be free to use an architectural design with less roof and add a fourth floor to their proposed building; but adding 20 feet to the height of the building for architectural features in order to be allowed to build to 97 feet NGVD is unacceptable.

Shown below is the view from the one bedroom unit 426.



	77 ft NGVD	
Architectural Feature (Roof)	54 ft NGVD	
	12 ft NGVD	

We are concerned that the developer not be allowed to build across the entire buildable area at the maximum allowed height of 77 feet NGVD. The impact on the views from existing condos (such as the view from unit 416 shown above) would be unacceptable.

Either the building needs to step down in height from north to south (from 77 feet NGVD to something like 54 feet NGVD).

GINN PROPOSAL #16 (sec 1.d.iii.B):

“(B) Amenity Structures. Structures sited within the Amenity Area shall be limited in height to the Ocean Towers Phase IV pool deck gazebo roof unless those associations affected concur with a revised height during the architectural design phase and PUD review process.”

RESPONSE: The original assurance of the developer was that this structure would be no higher than the south pool deck itself. The developer later requested that the height be increased to the south pool deck railing (an increase of just under 4 ft). The pool deck gazebo is approximately 25'-4" above the pool deck (and 33% of the building is proposed to be another 20 ft higher for architectural features). This increase in height is unacceptable.



The development of a new meeting room facility immediately in front of the condos shown here on the left above with a maximum height of gazebo roof also shown here would be absolutely unacceptable. The proposed building extends to the left across the entire face of the condos shown here. The original proposed structure (at the pool deck height) was already objectionable to the first floor three bedroom condos on the south side of the phase 1 condo tower. This proposal will cause two more floors of condos to be affected, now including two floors of one bedroom condos and the Ocean Towers (shown here). Completely blocking the views from existing condominiums is simply unacceptable.

GINN PROPOSAL #17 (sec 1.d.iii.C):

“(C) The height restrictions expressed herein do not include architectural features such as towers, cupolas, belfries, spires, domes, steeples, apses, chimneys, and roof parapets. Architectural features shall be limited to 33% of the building footprint/area. The height of an architectural feature shall be restricted to 20 feet measured from the top point of the building to the highest vertical point of the architectural feature.”

RESPONSE: This paragraph is unacceptable. Adding 20 feet to 33% of all of the buildings defeats the purpose of the height restriction. We reject the whole idea being proposed here and are not willing to negotiate reductions in additional height for architectural features or percentage of architectural features areas. The maximum height of a building should be the maximum height of the building.

GINN PROPOSAL #18 (sec 2.a, b & c): Additional Amenities; Within Cluster 35; While programmed uses for Cluster 35 are not fully known at this time, the Developer envisions the following amenities as part of the development plan for the Cluster 35 area:

- (A) Enlarged Atlantic Grille dining area;
- (B) Enlarged Sandtrap bar area;
- (C) Enlarged kitchen and back of house support areas;
- (D) Guest lodging rooms;
- (E) Meeting space, conference, and/or ballrooms;
- (F) Swimming pool(s) and potential spa(s);
- (G) Amenity deck event areas;
- (H) Concierge area and related offices;
- (I) Housekeeping and maintenance areas; and

RESPONSE: As explained during the past 20 months of discussion, Ginn's use of non-binding terms (i.e. "envision") is unacceptable. The amenities listed herein must be a requirement of any future development or agreement.

- (b) Structured and/or grade level parking areas. Structured parking areas may extend outside of the footprint of the residential and non-golf related buildings, but shall not encroach into the setbacks to golf holes 9 and 18, as applicable. Extensions of structured parking outside of the footprint of the residential and non-golf buildings shall be limited to one story in height and the roof level shall be architecturally treated.

RESPONSE: The phrase "architecturally treated" requires additional definition.

- (c) *Within or outside of the Cluster 35.*

- (i) *In addition to the amenities included within the Cluster 35 development, the Developer commits to provide the following amenities located within or outside of Cluster 35:*

(A) *Non-Golf Related Member Amenities*

- (a) *These amenities shall include:*

- (i) *New Member swimming pool; and*
- (ii) *New Member meeting space.*

- (b) *These facilities would be devoted for use by Club Members in good standing.*

- (c) *While the location and siting of the aforementioned facilities is not known at this time, the Parties acknowledge the Fantasy Pool Complex sand volleyball court area may be a suitable candidate site worth consideration.*
- (d) *In addition to the new amenities identified in subparagraph (i), above, the Developer commits to provide (through relocation or construction) a "spinning bicycle" facility comparable to the existing facility located in the Lodge pool building.*

RESPONSE: The sand volleyball court area is immediately adjacent to single family lots. This location would not be very private and the pool would no longer be oceanside. The current pool is spacious, oceanside and relatively private feeling. The north end of the great lawn might offer a good alternative.

GINN PROPOSAL #19 (sec 2.c.i.B and sec 2.d):

(B) Golf Related Amenities

- (a) Member Golf Locker Areas (Men and Women);*
 - (b) Member dining area;*
 - (c) Guest Golfer Locker Areas (Men and Women);*
 - (d) Enlarged Golf Pro/Retail Shop area;*
 - (e) Enlarged entrance cart barn with dual entrance (may be stand-alone structure or attached); and*
 - (f) Tournament/Administrative Golf offices.*
- (d) The Developer obligation to construct these new Additional Amenities shall be triggered by the Developer's initiation of demolition of the existing Lodge and Lodge pool building and facilities. Once triggered, the Developer shall promptly undertake the construction of the Additional Amenities and diligently prosecute such construction until completion of all facilities. Developer acknowledges that the County may tie the issuance of certificotes of occupancy within Cluster 35 to the Developers' good faith compliance with this requirement.*

RESPONSE: We believe that the new golf club house must be completed and operational prior to the demolition of the existing facilities. With regard to this issue, the parties must be bound by a typical "continuing use" agreement.

GINN PROPOSAL #20 (sec 3, 4 & 5):

3 *Ocean Hammock Master Declaration Common Area Cost Share.*

- (a) The Parties acknowledge Cluster 35 is not encumbered by, nor subject to, the Ocean*

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Hammock Master Declaration of Covenants, Conditions, and Restrictions.

(b) The Developer recognizes that increasing the Cluster 35 units above the existing units at the Lodge warrants revisit of the Connector Road Agreement.

(c) The Developer commits to renegotiate in good faith the cost share embodied within the Connector Road Agreement as it relates to the effect of the proportionate share of costs for the actual increased residential units within Cluster 35.

RESPONSE: As part of any settlement agreement, Ginn shall be bound by a cost sharing agreement contributing to the maintenance of 16th Road. Moreover, Ginn's contribution shall become effective and payable upon execution of any settlement agreement.

We are working diligently to develop the specifics of a compromise to present to our property owners, but in the meantime would appreciate any response to our comments here.

Most importantly, the proposed settlement agreement has no apparent enforcement mechanisms. Without such Ginn is requesting that my clients give up what many believed to be the "iron clad" guarantee that the golf course land would never be used for residential development in exchange for a promise of good intentions.

We will be unable to support any agreement unless adequate protections are included.