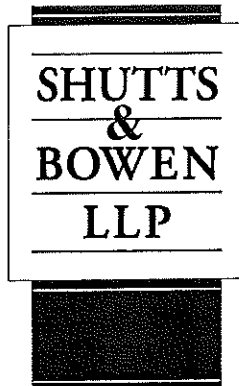


**EXHIBIT A**

**PROPOSAL OF NOPC APPLICANTS**



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November 29, 2010

**VIA ELECTRONIC MAIL**

The Hon. Board of County Commissioners  
Flagler County Board Chambers, Bldg. 2  
Flagler County Government Center  
1769 East Moody Boulevard  
Bunnell, Florida 32110

**Re: Ginn-LA Marina, LLLP, LTD, Northshore Hammock LTD,  
LLLP and Northshore Ocean Hammock Investment, LTD,  
LLLP., v. Flagler County, DOAH Case No. 10-9137 DRI**

Dear Commissioners:

Enclosed herewith please find Petitioners' draft of potential settlement terms for the above referenced matter. It is our understanding that if the Commission elects on Thursday evening to direct its counsel to proceed to negotiate final settlement language with the Petitioners, a separate, formal settlement agreement will be negotiated and brought back to the Commission for final action at a public hearing. The Commission would then make a final decision as to whether, and on what terms, it wishes to settle this matter prior to the scheduled three day hearing before the Honorable Donald R. Alexander, Administrative Law Judge.

Please note that the Petitioners propose to enter directly and solely into settlement discussions with Flagler County. If the County wishes to represent the interests of the intervening property owners associations in those discussions, we would be fine with that. However, it has been Petitioners' experience over the past 18 + months that these associations have been unable to reach agreement among

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themselves as to what should, and should not, be a deal-breaker term in settlement negotiations. That these associations are either incapable of agreeing among themselves or, in the alternative, of pursuing a reasonable settlement in good faith, has in our opinion been evidenced by recent communications, both external and internal, from their legal counsel. Accordingly, while we fervently hope a detailed settlement agreement can be reached that will be specifically enforceable by, and will to the greatest degree possible preserve the rights of, all interested parties, we are of the opinion that you, the elected Commissioners charged with doing what is best for the entire County, must take charge and explore diligently whether a reasonable settlement can be reached before substantial sums are expended from the public coffers to try this matter. While a trial may ultimately prove inevitable, we think both of the principals, the Petitioners and the County, owe it to our constituents to at least diligently investigate for a short period whether settlement may be had. The trial, of course, will be there waiting for each of us if we fail in this regard.

Petitioners have put considerable time, research and thought into reaching the best settlement terms it believes it can offer while maintaining the economic viability of the development. The attached proposal reflects those terms. While no settlement can possibly please every interested party, the attached represents the Petitioners' good faith effort to reach a solution that is ultimately in the best interests of everyone who has a stake in the continued viability of the Hammock Dunes Development of Regional Impact as a high-quality, highly desirable community. At the same time, Petitioners do not now, nor have they ever, held out the attached proposed terms as final terms or language of a settlement agreement. These are terms that are important to Petitioners but, as mentioned previously, the goal is a fully specifically enforceable settlement agreement with final agreed terms and language.

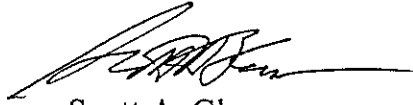
Petitioners understand that Admiral Corporation, which has intervened in this matter, is separately submitting language it wishes to have added to any final settlement agreement reached in this matter. While Petitioners believe this is primarily an issue between the County and Admiral, based on the proposed language circulated by Admiral's counsel on November 22<sup>nd</sup>, Petitioners would have no objection to such terms, including execution of an Essentially Built-Out Agreement, being included in a final settlement, provided that Petitioners rights and full entitlements, as may ultimately be reflected in the final settlement

agreement are vested and protected, including the ability to seek a further extension if other assurances prove unsatisfactory.

We hope, as you review the attached, you will keep in mind the value and contributions, economic, social and cultural, that the Hammock Dunes Development of Regional Impact has brought to Flagler County and that you will give serious consideration to the proposal and weigh all factors when deciding what makes most sense for Flagler County as a whole. Thank you.

Sincerely,

SHUTTS & BOWEN LLP



Scott A. Glass

cc: Albert Hadeed, Esq.  
Wayne Flowers, Esq.  
Isabelle Lopez, Esq.  
Ellen Avery-Smith, Esq.  
Michael Chiumento, III, Esq.



The Developer commits to comply with the following provisions, criteria, and requirements which shall govern development of areas within Cluster 35, and shall be reflected and represented in subsequent planned unit development (“PUD”) applications, site plans, plats, and construction documents, and building permit applications for future improvements within Cluster 35:

**1. 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.

**(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.

**(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 products, which shall serve as a standard of quality for Fractional Residences. If fractional ownership is ultimately created the Developer will either record a restrictive covenant, specifically enforceable by individual residents within the DRI, or will enter into a separate agreement with the Associations to allow them to enforce the requirement that Fractional Residences be comparable to, or at the same level, as the following branded products:

**(A) Ritz Carlton Destination Club™**

**(B) Hilton Grand Vacations™**

**(C) Westin Premier Destinations™**

**(D) Marriott Elite Vacation Club™**

**(v) Size.**

- (A) Dwelling units shall not be limited in size or configuration except with respect to compliance with Flagler County codes.
  - (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 viewshed 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.
- (b) Meeting space and ancillary amenity structure(s) outside of the Residential building(s).
- (i) The Developer may, subject of course to the prior approval of the Board of County Commissioners, 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.
  - (ii) In the event such development is approved, 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.
  - (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. Final approval of any proposed construction will rest with the Board of County Commissioners and be subject to the development approval processes set forth in the Flagler County Land Development Code.
  - (iv) 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.
- (c) Golf related buildings, amenities and uses.
- (i) Pursuant to the existing DRI Development Order, structures supporting golf operations are not restricted to any particular location within the platted golf course property. This provision shall not change with the creation of Cluster 35 and,

therefore, shall provide the opportunity for the construction of new and replacement golf course facilities at an appropriate location convenient to golfers.

- (ii) The Developer will work with the Nicklaus organization to ensure that the construction of new or replacement golf course facilities at a suitable location within the platted golf course property will not adversely affect the "Signature Course" designation currently enjoyed by the golf course.

**(d) 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 18<sup>th</sup> 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 16<sup>th</sup> Road – 25 feet from property boundary; and
    - 2. Adjacent to 9<sup>th</sup> hole – 150 feet from green.

- (b) The Parties acknowledge and agree that the specific location, size, scale, shape, orientation, and building geometry will be defined in successive stages of review, entitlement permitting and development as provided by applicable Flagler County ordinances and shall be consistent with the terms presented herein.

**(B) 16<sup>th</sup> Road.**

- (a) Map C.1 depicts the relocation of the existing 16<sup>th</sup> Road right of way and associated improvements.
- (b) The Parties agree that it is in the interests of the Parties to relocate the 16<sup>th</sup> Road right of way. The Parties will use good faith efforts to seek approval

from jurisdictions having authority for 16<sup>th</sup> 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 16<sup>th</sup> 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 16<sup>th</sup> Road.

(ii) Golf related amenities and facilities.

- (a) The Developer, 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 in an effort to reduce the footprint and mass of any structure(s) to be constructed 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.

(iii) 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.
- (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.
- (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 a maximum of 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.

2. Additional Amenities

(a) Within Cluster 35.

- (i) 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
- (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.
- (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.
- (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 certificates of occupancy within Cluster 35 to the Developers' good faith compliance with this requirement.

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

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

**4. Timing**

(a) The Developer agrees to accelerate design and architectural review processes in order to conduct design workshops with association members and interested parties with the purpose of presenting and defining building concepts and designs.

(b) The Developer will conduct design charets with the association representatives prior to making formal application to Flagler County.

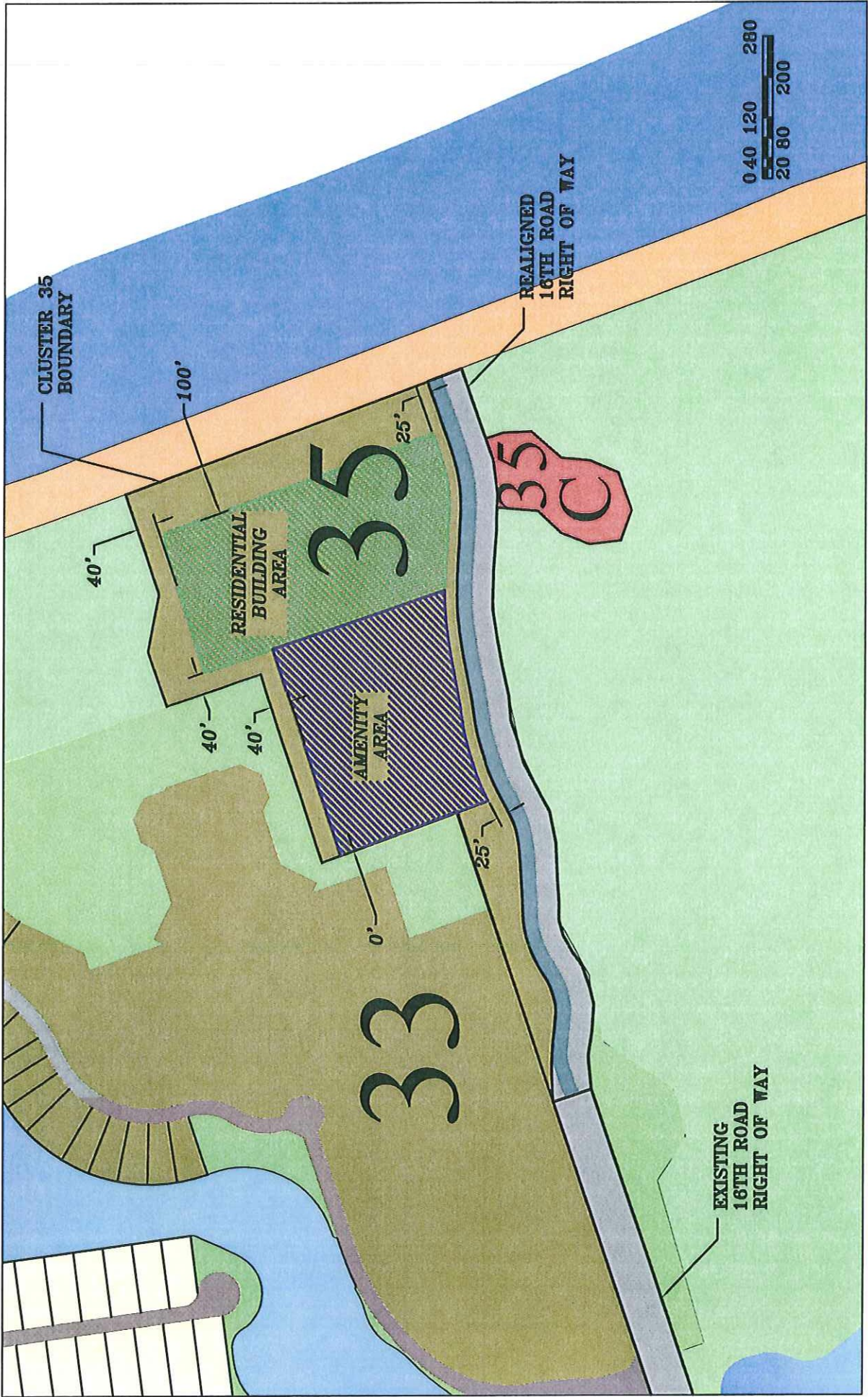
**5. Agreement**

(a) This Agreement is initially extended to Flagler County, as eighteen months of negotiations between the Developer, and Associations, and interested parties failed to produce final written accord.

(b) The Developer is willing to extend the terms of this Agreement to the Associations in order to reach finality and conclusion to this matter and enable economic development to continue within the Hammock Dunes DRI.

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# MAP C.1



FOR SETTLEMENT DISCUSSIONS ONLY – NOT ADMISSABLE

NOVEMBER 17, 2010