

ORDINANCE NO. 2006-21

AN ORDINANCE ESTABLISHING THE GARDENS AT HAMMOCK BEACH COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES (2003); PROVIDING A TITLE; PROVIDING FINDINGS; CREATING AND NAMING THE DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESCRIBING THE FUNCTIONS AND POWERS OF THE DISTRICT; CONSENTING TO THE USE OF SPECIAL POWERS BY THE DISTRICT; DESIGNATING FIVE PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Hammock Beach Rive Club, LLC ("Petitioner"), having obtained written consent to the establishment of the District by the owners of one hundred percent (100%) of the real property to be included in the District, petitioned the Board of County Commissioners of Flagler County (the "County") to adopt an ordinance establishing The Gardens at Hammock Beach Community Development District (the "District") pursuant to Chapter 190, Florida Statutes (2003); and

WHEREAS, Petitioner is a Georgia corporation authorized to conduct business in the State of Florida and whose principal place of business is One Hammock Beach Parkway, Palm Coast, Florida 32137; and

WHEREAS, all interested persons and affected units of general-purpose local government were afforded an opportunity to present oral and written comments on the Petition at a duly noticed public hearing conducted by the County on October 9, 2006; and

WHEREAS, upon consideration of the record established at that hearing duly noticed, the County finds as follows:

- (1) The statements within the Petition were true and correct; and
- (2) The petition is complete in that it meets the requirements of Section 190.005(1)(a), Florida Statutes (2000) and all statements contained within the petition are true and correct; and
- (3) The appropriate Board staff have reviewed and approved the petition for establishment of the District on the proposed land and it is complete and sufficient; and
- (4) The costs to Flagler County and government agencies from establishment of the District are nominal. There is no adverse impact on competition or employment from District establishment. The persons affected by the establishment are the future

landowners, present landowners, Flagler County and its taxpayers, and the State of Florida. There is a net economic benefit flowing to these persons by virtue of establishing this District as the governmental entity to manage and finance the statutory services identified. The impact of District establishment and function on competition and the employment market is marginal and generally positive, as is the impact on small business. None of the reasonable public or private alternatives, including an assessment of less costly and less intrusive methods and of probable costs and benefits of not adopting the ordinance, is as economically viable as establishing the District. Methodology is as set forth in the Statement of Estimated Regulatory Costs ("SERC") is on file with the County. The SERC of the Petitioner on District establishment is complete and adequate, and meets the requirements of Section 120.541, Florida Statutes; and

(5) Establishment of the District by this Ordinance, whose uniform general law charter consists of Sections 190.006 – 190.041, Florida Statutes, created by general law, is subject to and not inconsistent with the local Comprehensive Plan of Flagler County and with the State Comprehensive Plan; and

(6) The area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as one functional, interrelated community; and

(7) The District is the best alternative available for delivering community development services and facilities to the area proposed to be serviced by the District; and

WHEREAS, establishment of the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area described in the petition; and

WHEREAS, the Petitioner has requested the Board for consent to exercise one or more of the special powers granted by charter in Section 190.012(2), Florida Statutes, and the Board in reaching its conclusions, has considered the potential exercise by the District of all the powers set forth in Section 190.012(1-3), Florida Statutes; and

WHEREAS, upon the effective date of this establishing Ordinance, The Gardens at Hammock Beach Community Development District, as created by general law, will be duly and legally authorized to exist on the proposed property and to exercise all of its general and special powers as limited by law.

NOW THEREFORE, BE IT ORDAINED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS:

SECTION 1. TITLE. This Ordinance shall be known and may be cited as "The Gardens at Hammock Beach Community Development District Establishment Ordinance."

SECTION 2. BOARD FINDINGS. The Board findings set forth in the recitals to this Ordinance are hereby incorporated in this Ordinance.

SECTION 3. AUTHORITY. This Ordinance is adopted in compliance with and pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes (2003).

SECTION 4. CREATION OF DISTRICT; DISTRICT NAME. There is hereby created a community development district situated entirely within unincorporated Flagler County, Florida, which District shall be known as "The Gardens at Hammock Beach Community Development District." Therefore, the petition filed to create The Gardens at Hammock Beach Community Development District is hereby granted and the said District shall operate in accordance with the Uniform Community Development District charter as set forth in Chapter 190, Florida Statutes.

SECTION 5. EXTERNAL BOUNDARIES OF THE DISTRICT. Encompassing approximately 953.37 acres, the external boundaries of the District are described in "Exhibit A" attached hereto.

SECTION 6. FUNCTIONS AND POWERS. The District is limited to the performance of those powers and functions as described in Chapter 190, Florida Statutes. Consent is also hereby given, pursuant to Section 190.012(2), Florida Statutes, to the District Board to exercise all special powers set forth in Section 190.012, Florida Statutes. More specifically, the District is granted by its charter, so long as it is in compliance with and subject to the Flagler County Comprehensive Plan and subject to the regulatory jurisdiction and permitting authority of all applicable other ordinances and regulations of Flagler County, the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreational, cultural and educational uses, fire prevention and control, including related buildings and equipment, school buildings and related structures, security, including but not limited to personnel and equipment, mosquito and arthropods of public health importance control, and waste collection and disposal. In the exercise of its powers, the District shall comply with all applicable governmental laws, rules, regulations and policies including, but not limited to, all Flagler County ordinances and policies governing land planning and permitting of the development to be served by the District. The District shall not have any zoning or permitting powers governing land development or the use of land. No debt or obligation of the District shall constitute a burden on any local general purpose government. Notwithstanding anything to the contrary contained in this Ordinance, the District shall possess no right, power, or authority to take any action inconsistent with or in breach of that Utility Asset Transfer Agreement Among Flagler

County, Hammock Beach River Club Property Owners Association, Inc., and Hammock Beach River Club, LLC, dated August 21, 2006.

SECTION 7. BOARD OF SUPERVISORS. The five persons designated to serve as initial members of the District's Board of Supervisors are as follows: Daniel J. Baker, Robert F. Masters, Melissa Clingerman, Jason R. Shepler, and Albert E. Jones.

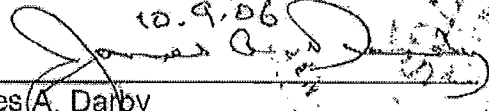
All of the above-listed persons are residents of the state of Florida and citizens of the United States of America.

SECTION 8. SEVERABILITY. If any provision of this Ordinance is held to be illegal or invalid, the other provisions shall remain in full force and effect.

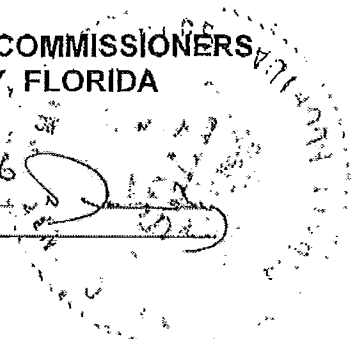
SECTION 9. EFFECTIVE DATE. This Ordinance shall be effective immediately upon receipt of official acknowledgement by the Secretary of State that a copy of this Ordinance has been filed with the Secretary of State.

PASSED AND GRANTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, THIS 9th DAY OF OCTOBER, 2006

**BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA**


10.9.06


James A. Darby
Chairman



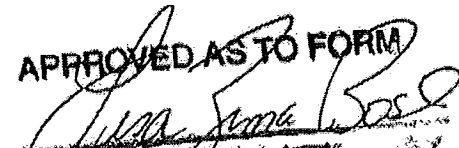
ATTEST:

APPROVED AS TO FORM:



Lisa Pontas, S.C.
Gail Wadsworth, Clerk and Ex Officio to
the Board

Thomas A. Cloud, Special Counsel

APPROVED AS TO FORM


DEPUTY COUNTY ATTY.
Antun *9/27/06*

**Gardens at Hammock Beach Community Development District
Hammock Beach River Club, LLC
List of Land Owned
As of January 10, 2007**

DESCRIPTION:

A PORTION OF LOTS 1, 3, 7, 8 AND 9 AND ALL OF LOTS 6, 10, 11 AND 12 BLOCK C, BURNELL DEVELOPMENT COMPANY'S LAND AS RECORDED IN PLAY BOOK 1, PAGE 1 IN THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, TOGETHER WITH A PORTION OF GOVERNMENT SECTIONS 13, 14, 38 AND 39, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, SITUATED IN GOVERNMENT SECTIONS 11, 14, 38 AND 39, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201) AND THE NORTH LINE OF SAID SECTION 38-12-31; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE NORTH 18°15'00" WEST, A DISTANCE OF 2000.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE, NORTH 18°15'00" EAST, A DISTANCE OF 329.53 FEET; THENCE DEPARTING SAID WEST RIGHT-OF-WAY LINE NORTH 88°47'52" EAST, A DISTANCE OF 814.95 FEET TO A POINT ON THE WEST LINE OF SECTION 13-12-31; THENCE ALONG SAID WEST SECTION LINE NORTH 01°13'40" WEST, A DISTANCE OF 661.23 FEET TO A POINT ON THE NORTH LINE OF SECTION 13-12-31; THENCE ALONG SAID NORTH SECTION LINE NORTH 08°56'18" EAST, A DISTANCE OF 1,890.40 FEET TO POINT ON THE WEST RIGHT-OF-WAY LINE OF FLORIDA INTRACOSTAL WATERWAY; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING TWO COURSES: SOUTH 13°59'25" EAST, A DISTANCE OF 2,750.14 FEET; THENCE SOUTH 21°17'55" EAST, A DISTANCE OF 1,265.83 FEET; THENCE DEPARTING SAID WEST RIGHT-OF-WAY LINE AND ALONG A WESTERLY LINE OF THE HISTORIC CHANNEL OF HAW LOVER CREEK, SOUTH 03°54'36" WEST, A DISTANCE OF 148.38 FEET; THENCE SOUTH 19°27'08" EAST, A DISTANCE OF 643.95 FEET; THENCE SOUTH 88°58'53" EAST, A DISTANCE OF 113.53 FEET TO A POINT ON THE AFORESAID INTRACOSTAL RIGHT-OF-WAY; THENCE SOUTH 21°17'55" EAST A DISTANCE OF 647.50 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY, SOUTH 69°10'09" WEST, A DISTANCE OF 2,520.12 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF JOHN ANDERSON HIGHWAY (STATE ROAD 201); THENCE ALONG SAID EAST RIGHT-OF-WAY LINE SOUTH 40°21'41" EAST, A DISTANCE OF 737.69 FEET; THENCE DEPARTING SAID WEST RIGHT-OF-WAY LINE SOUTH 69°18'47" WEST, A DISTANCE OF 1540.02 FEET; THENCE NORTH 20°41'22" WEST, A DISTANCE OF 995.98 FEET; THENCE NORTH 24°04'44" WEST, A DISTANCE OF 1,018.01 FEET; THENCE NORTH 06°17'08" WEST, A DISTANCE OF 2,604.28 FEET; THENCE NORTH 60°57'10" WEST, A DISTANCE OF 341.50 FEET; THENCE NORTH 43°23'02" WEST, A DISTANCE OF 2,172.87 FEET; THENCE NORTH 30°47'31" EAST, A DISTANCE OF 1,526.35 FEET; THENCE NORTH 45°51'15" EAST, A DISTANCE OF 942.38 FEET; THENCE NORTH 40°14'18" WEST, A DISTANCE OF 1,732.75 FEET; THENCE NORTH 06°10'40" WEST, A DISTANCE OF 189.68 FEET; THENCE NORTH 00°15'33" WEST, A DISTANCE OF 814.90 FEET; THENCE NORTH 88°32'16" EAST, A DISTANCE OF 257.93 FEET; THENCE NORTH 01°27'08" WEST, A DISTANCE OF 1,087.72 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 100; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE SOUTH 89°29'03" EAST, A DISTANCE OF 959.81 FEET; THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY LINE SOUTH 00°30'57" WEST, A DISTANCE OF 210.01 FEET; THENCE SOUTH 89°29'03" EAST, A DISTANCE OF 210.00 FEET; THENCE SOUTH 00°30'57" WEST, A DISTANCE OF 389.92 FEET; THENCE SOUTH 89°28'58" EAST, A DISTANCE OF 822.42 FEET; THENCE SOUTH 00°08'48" EAST, A DISTANCE OF 1,704.61 FEET; THENCE NORTH 88°51'12" EAST, A DISTANCE OF 1,350.55 FEET; THENCE SOUTH 01°10'32" EAST, A DISTANCE OF 660.84 FEET; THENCE NORTH 88°37'17" EAST, A DISTANCE OF 158.75 FEET; THENCE SOUTH 18°14'40" EAST, A DISTANCE OF 330.09 FEET; THENCE NORTH 88°50'11" EAST, A DISTANCE OF 330.04 FEET TO THE POINT OF BEGINNING.

CONTAINING 953.37 ACRES, MORE OR LESS.

TOTAL VOTES

TOTAL NUMBER OF AUTHORIZED VOTES:

953.37

953.00