

MEMORANDUM OF UNDERSTANDING

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MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING dated as of the 20 day of May, 2021 by and between PALMETTO DUNES PROPERTY OWNERS ASSOCIATION, INC. (hereinafter "PDPOA"), and PALMETTO DUNES RESORT LLC (hereinafter "PDR").

WITNESSETH

WHEREAS, PDR is the sole owner of all those four (4) condominium Units (the "Units"), together with all Common Elements of the Dunes House Horizontal Property Regime (the "Regime") established under the Master Deed of Greenwood Communities and Resorts, Inc. dated November 7, 2008, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, on November 17, 2008, in Book 2783 at Page 2177 (the "Master Deed"), said property being located at 14 Dunes House Lane, Hilton Head Island, South Carolina, and consisting of 1.26 acres of land, more or less, together with a building containing the Units (the "Property"); and

WHEREAS, PDPOA is the property owners association of the owners (the "Members") of those certain residential parcels, lots, and condominium apartments encumbered by those covenants, conditions, and restrictions under instruments known as (i) the Consolidated Limited Residential Covenants recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 341 at Page 657, as thereafter amended (the "Single Family Covenants") and (ii) the Consolidated Multi-Family Residential Covenants recorded in Book 314 at Page 505, as thereafter amended (the "Multi-Family Covenants"); and

WHEREAS, PDR and PDPOA have had detailed discussion about a redevelopment of the Property in such a way as to replace the existing structure which would include a second floor and rooftop deck (respectively the "Second Floor" and "Rooftop") which would be leased to PDPOA for use by PDPOA as a recreational amenity space for the Members and their guests, while the balance of the Building would continue to be occupied by PDR for its commercial uses ("Project"); and

WHEREAS, it is the intent of the parties that this Memorandum to establish the understanding of the parties concerning the roles and obligations of the parties, the further instruments to be negotiated and finalized, and the further approvals to be obtained, all in furtherance of the Project as described in the preceding recital.

NOW, THEREFORE, the parties hereto agree as follows.

I. Building Reconstruction and Associated Redevelopment.

1. The Project will involve the replacement of the existing Dunes House building with the construction of a new Dunes House building (the "Building") which shall consist of a first floor and area underneath the first floor to be used by PDR or its assigns for its commercial uses (the "PDR Space"), the Second Floor and Rooftop (the "POA Space") which shall be leased to PDPOA as a Member amenity space as outlined in §II below.
2. The cost of construction of the Building shall be the responsibility of PDR, subject to the contributions by PDPOA described herein.
3. PDR shall reconfigure and expand the parking facility at its Palmetto Dunes Resort Tennis and Pickleball Center, which shall include the conversion of two (2) existing tennis courts, to provide additional parking for the PDPOA members. The expanded parking shall be in accordance with Dunes House Parking Study Composite drawing and the Tennis Parking Study which are attached hereto as Exhibit A and Exhibit B. The expanded parking facility, once completed, will be made a part of the lease referenced in §II (the "PDPOA Parking Facility"). The cost of the reconfiguration and expansion of the parking facility shall be the sole responsibility of PDPOA and is estimated to amount to

\$260,000.00. Such PD POA Parking Facility shall have not less than forty-two (42) parking spaces dedicated for the sole and exclusive use of PDPOA Members and their guests. PDPOA may install a gate to control access to the dedicated parking spaces. In addition, PDR shall have the right to use the entire PDPOA Parking Facility for its sole use to accommodate special events held during the year, such right limited to ten (10) days per year, the scheduling of which is to be addressed in the lease referred to in §11 below. During these ten (10) days of PDR use, PDR will have responsibility for the gate so as to control access.

4. The Project will require the redevelopment and reconfiguration of Dunes House Lane to facilitate traffic flow, Fire/EMS access, vendor deliveries, parking for the Dunes House, and access (which currently exists) to the Moorings HPR and Palmetto Beach Villas. The redevelopment shall be in accordance with the **Exhibit A** Dunes House Parking Study Composite drawing. PDPOA shall pay the cost of such redevelopment and reconfiguration which is estimated to amount to \$600,000.00. On-site parking at the Dunes House shall be shared between PDR and its customers and PDPOA, its Members and their guests on a first come basis.
5. PDPOA shall assign its Director of Planning and Property Operation ("**Planning Director**") to act in consultation with PDR to manage and oversee the following anticipated requirements of the Project:
 - a. Selection and retaining of an architect, land planner, engineer(s), and other professionals as may be required;
 - b. Preparation of conceptual drawings through final plans and specifications;
 - c. Town of Hilton Head Island ("**Town**") zoning map amendment application and building permitting;
 - d. Selections of a general contractor or contractor(s) for the Project; and
 - e. Redevelopment and reconstruction work from initial demolition through completion and delivery.

The parties intend that all activities described in this paragraph and required through completion of the Project shall be a collaborative effort with consultation and consent through each step, and the oversight by the PDPOA's Planning Director is intended as a convenience of the parties for the efficient completion of the Project rather than control over the Project. So there is clarity on the issue, in the event of any disagreement between the PDPOA Planning Director and PDR which cannot be resolved with discussion, PDR shall have the right to make the decision in its sole discretion.

II. Lease Agreement. The Lease shall relate to two separate properties, i.e. the POA Space in the Building and the PDPOA Parking Facility (the "**Leased Premises**").

1. PDR shall lease the Leased Premises to PDPOA pursuant to a lease agreement ("**Lease**") to be prepared after execution of this Memorandum. The Lease shall contain such terms and conditions as reasonably anticipated in similar commercial lease agreements in Beaufort County, South Carolina, including the following general terms:
 - a. An initial term of twenty (20) years ("**Initial Term**").
 - b. Annual Rent payable during the Term in the amount of \$170,000.00, subject to an increase of five percent (5%) every five (5) years. Rent shall be paid, in advance on a monthly basis.

- c. Two (2) five(5)-year renewal terms (“Renewal Terms”) at PDPOA’s option , which must be exercised in writing no later than one hundred and eighty (180) days prior to the end of the Initial Term. Rent during the Renewal Terms shall be negotiated in good faith by the parties once the notice to renew is exercised. Factors such as (i) rental rate in substantially similar facilities; (ii) the cumulative increase in the CPI from the Commencement Date of the lease; and (iii) general commercial rental rates in the Hilton Head/Bluffton market shall all be considered. In the event the renewal rate cannot be agreed upon in the first ninety (90) days after the renewal Notice is provided, the Base Rent for the first Renewal Term of five (5) years shall be adjusted by the cumulative increase in the cost of living for the preceding twenty (20) year term based upon the common Consumer Price Index for All United State Consumers (“CPI-U”) U.S. City Average 1982-1984-100 not seasonally adjusted South Atlantic Division (the “CPI”). The increase in the original base rent will be calculated from the commencement date of the Lease to the first day of the initial Renewal Period. Such increase would then be adjusted for the five percent (5%) increases referenced in subparagraph 1(b), and the end result shall be the rental rate for the entire five (5)-year period of the first Renewal Term. Then, the Base Rent for the second Renewal Term will be based on the cumulative increase of the cost of living for the previous five (5)-year period as determined by the same CPI Index. That resulting Base Rent would be paid for the entire second Renewal Term.
- d. All Building expenses including such items as property tax, assessments, insurance, and exterior building maintenance, landscaping maintenance and any other common facilities shall be shared equally between PDR and PDPOA. Each floor shall be separately metered for utilities and designed for separate HVAC systems.
- e. PDPOA shall be permitted to sublet the POA Space for periods of not less than six (6) months, upon approval of PDR, such approval not to be unreasonably withheld. PDPOA may also terminate the Lease at or after the tenth (10th) year of the Term with ninety (90) days advance notice in writing and upon payment to PDR of a termination fee equal to one year’s of the then existing rent.
- f. PDR (or its affiliates) currently provide for rental of the Dunes House for special events, and desires to have the ability to utilize the POA Space as additional rental space for such special events. The parties agree that PDR may rent the POA Space for not more than forty (40) days, which may include not more than thirty (30) Saturdays, during each year. For such periods of rental, PDR shall pay PDPOA daily rent as follows:

Months:	Per day Rental Rate:
During April, May, June, September and October	\$3,000.00 for Saturday \$2,250.00 for all other days
March, July, August and November	\$2,400.00 for Saturday \$1,600.00 for all other days
December, January and February	\$750.00 for Saturday \$500.00 for all other days

The daily rental rates set forth in the schedule above shall be subject to an increase of five percent (5%) every five (5) years in the same manner as provided in the annual rent payable under the Lease.

2. The parties anticipate that PDR (or its affiliates) shall continue to operate its food and beverage service upon the PDR Space and the Members and their guests utilizing the POA Space and hence will provide a source of revenue to PDR for their food and beverage needs. Accordingly, for so long as PDR (or its affiliates) continue a food and beverage service in substantially similar format as existing, the Members' use of the POA space shall be subject to the following:
 - a. All food and beverage will be purchased from PDR's Dunes House operations, except as outlined in the Food & Beverage Guidelines attached hereto as Exhibit C.
 - b. For security and safety reasons, the parties understand that no access will be available to Members when the PDR space is not open and operating unless otherwise provided in the Exhibit C Guidelines, or unless PDR otherwise consents and PDPOA can provide sufficient control as to access and activities.
3. PDPOA shall be permitted to rent the POA Space to its Members for special events. During such periods of rentals, members will be permitted to select a catering service from an approved list of caterers which shall be prepared and revised from time to time based on consultation with PDR. The parties intend the approved list shall contain at least three (3) caterers, one of whom shall be PDR (or its affiliate) if PDR is providing catering services. The initial list currently contemplated is (a) PDR, through its Dunes Catering; (b) _____ [TBD] _____; and (c) _____ [TBD] _____. The caterers other than PDR must load and unload from unlabeled vehicles and may not use the Dunes House elevator or the PDR kitchen.
4. Recognizing that the use of the POA Space is intended for the Members of the PDPOA, the PDPOA does agree that the Self family will be provided special membership privileges to the POA Space during the Term of the Lease. As family members will change from time to time, PDR will receive six (6) membership cards or other form of identification which may be used by PDR for members of the Self family for this benefit. Users of such cards shall be treated just as any other members at the POA Space.

III. Use Covenant Amendment / Zoning Change.

1. The parties acknowledge the Property to be subject to that certain Declaration of Covenants, Conditions and Restrictions by Greenwood Development Corporation k/n/a Palmetto Dunes Resort LLC dated April 30, 2008, and recorded in the Beaufort County records in Book 2772 at Page 2010 (the "Declaration") which restricts permitted uses on the Property. The parties agree that Declaration shall be amended to permit utilization of the Dunes House for the uses contemplated by this Memorandum. PDR shall prepare an initial draft of such an amendment and subject to PDPOA for its approval.
2. The parties acknowledge the Property exists as a horizontal property regime, and agree to cooperate as necessary to amend the Master Deed establishing the Regime, or merge the property of the Regime to effectuate the redevelopment of the Dunes House area to accomplish the Project as contemplated by this Memorandum. PDR shall at its expense prepare the necessary documents to address this or may choose to terminate the Regime.
3. The parties acknowledge the possibility that the reconstruction of the Dunes House will likely require a successful zoning change through a zoning map amendment. PDPOA will support such a zoning change and work proactively with the Town in encouraging such amendment.

IV. PDR Commercial Assessment.

1. Pursuant to that certain Agreement as to Assessments by and between Greenwood Development Corporation n/k/a PDR and PDPOA dated effective December 31, 2005 (the "**Assessment Agreement**"), PDR is assessed and pays to PDPOA an annual assessment on certain properties it owns within Palmetto Dunes. These properties are defined in the Assessment Agreement as the "**Retained Property**", and the assessments have been commonly referred to as the "**PDR Commercial Assessment**".
2. PDR is designated as a Special Member of PDPOA pursuant to the Article X of the Bylaws for PDPOA, and its annual voting power is based on its annual PDR Commercial Assessment payment divided by the amount of the greatest single lot regular assessment assessed for that year.
3. During the Initial Term and any Renewal Term of the Lease, PDPOA shall not increase the amount of the PDR annual Commercial Assessment in an amount greater than the percentage increase of the regular residential lot assessments for a given year.
4. PDR agrees that it will contribute to the PDPOA Storm Reserve Fund the amount of \$10,000.00 each year for the first two (2) years of the Lease Term. These Storm Reserve Fund contributions shall be in addition to the PDR Commercial Assessments. PDR agrees that it will consider additional contribution requests should the need arise in the future as a result of a storm or other natural disaster.

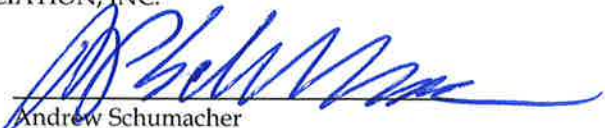
V. Further Agreements / Approvals / Completion.

1. The understandings and agreement of the parties set forth herein are subject to further definitive agreements between the parties as to the specific matters hereof, and no one or more agreement contained herein shall be enforceable in the absence of such further definitive agreement. The parties agree to work together in a collaborative effort to memorialize the further agreements contemplated hereby.
2. The understandings and agreements set forth in this Memorandum are subject to approval of the respective Board of Directors of each party. The parties anticipate such approvals to be obtained no later than June 1, 2021.
3. The parties anticipate completion of the Project and occupancy of the Dunes House by PDR and PDPOA on or before June 1, 2023.

IN WITNESS WHEREOF, the parties have caused this Memorandum to be executed effective as of the date first written above.

PDPOA

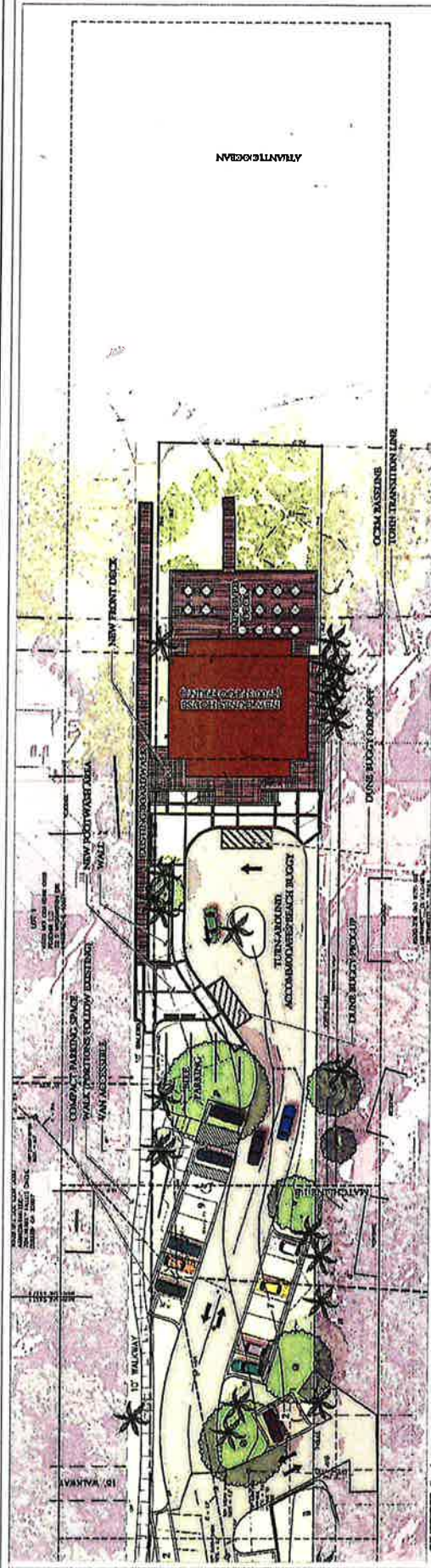
PALMETTO DUNES PROPERTY OWNERS
ASSOCIATION, INC.

By 
Name Andrew Schumacher
Title Chief Executive Officer

PDR

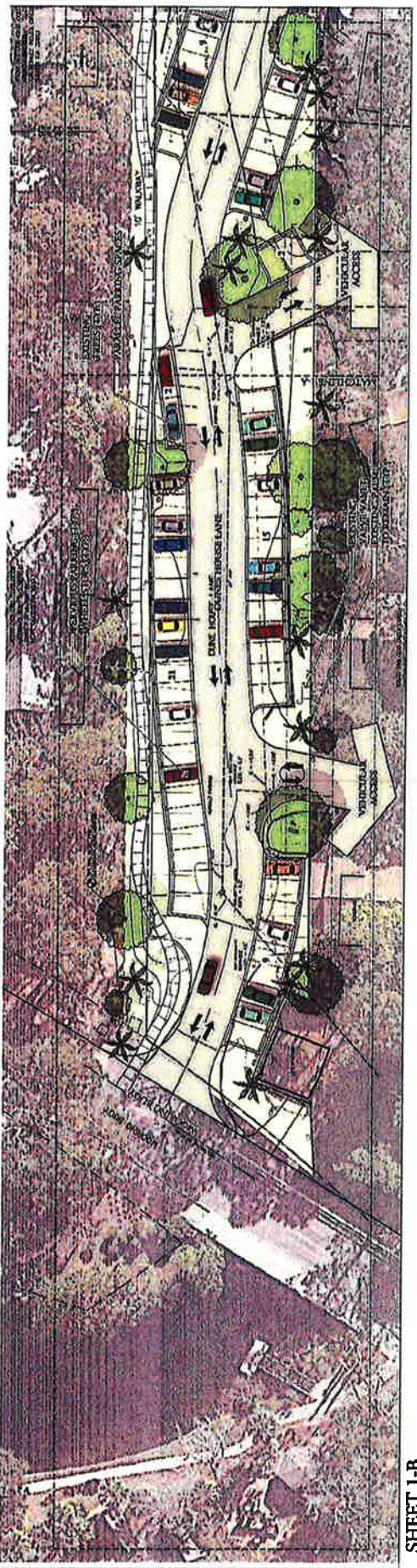
PALMETTO DUNES RESORT LLC

By 
Name William M. Self, Jr.
Title President



SHEET 1-A

67 TOTAL PARKING SPACES PROVIDED (INCLUDING 2 DUNE BUGGY SPACES)



SHEET 1-B

PREPARED FOR:
PALMETTO DUNES POA

PREPARED BY:
J. K. TILLER ASSOCIATES, INC.
LANDSCAPE ARCHITECTS



THIS IS A CONCEPTUAL PLAN AND IS SUBJECT TO CHANGE. ALL SURVEY INFORMATION AND DATA INCORPORATED HEREIN ARE BASED ON RECORDS AND FIELD SURVEYING AND MEASUREMENTS. THE DESIGNER ASSUMES NO LIABILITY FOR THE ACCURACY OR COMPLETION OF THE ANY DECISIONS (EXCEPT AS NOTED ON THIS DRAWING) WHICH THE USER MAY MAKE BASED ON THIS INFORMATION.

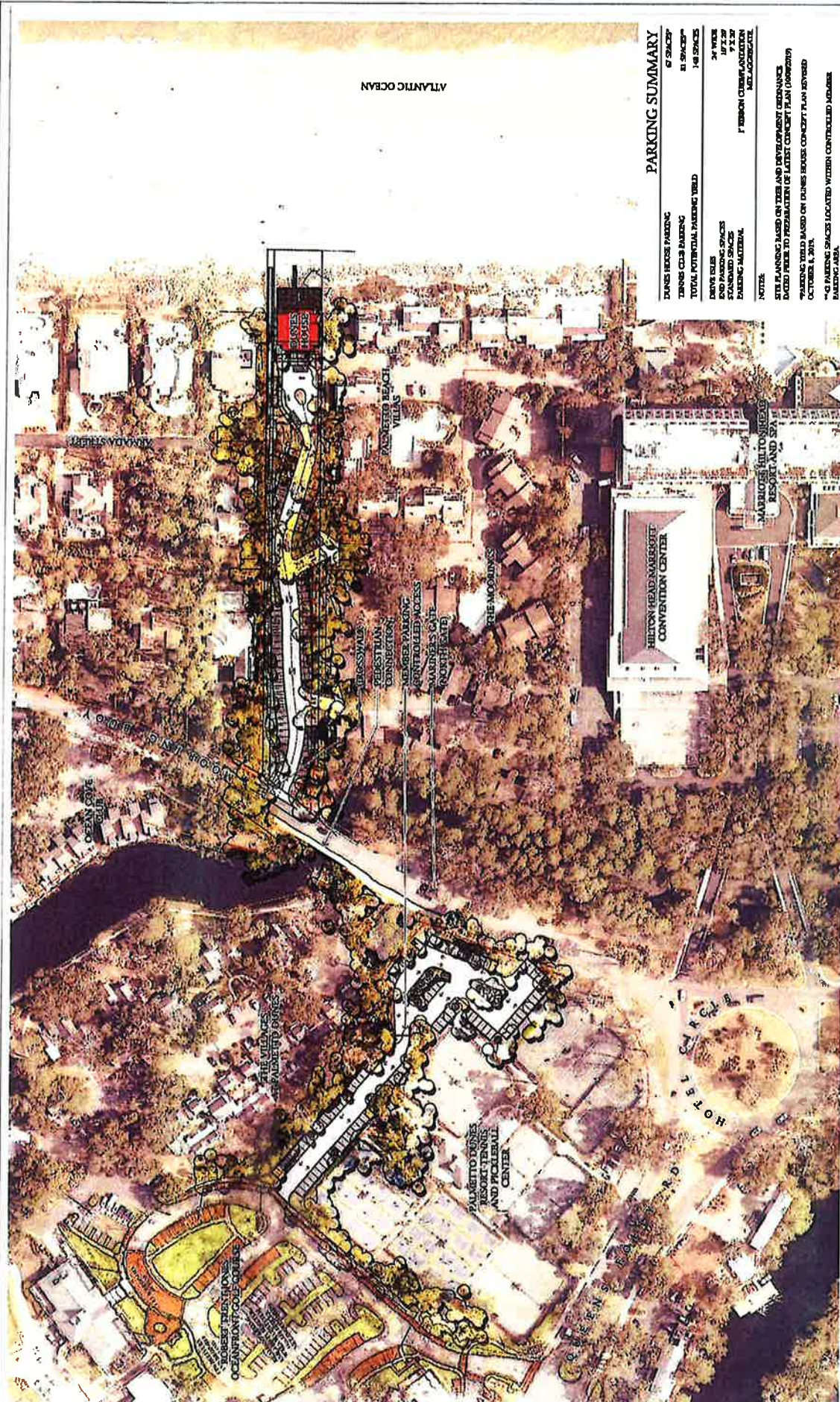
DUNES HOUSE IMPROVEMENTS CONCEPTUAL PLAN

TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

OCTOBER 8, 2019



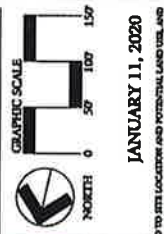
REF: PALMETTO 2008-09



PARKING SUMMARY

DUNES HOUSE PARKING	6 SPACES
TENNIS CLUB PARKING	81 SPACES
TOTAL POTENTIAL PARKING YIELD	148 SPACES
DRIVE IN/OUT	24 SPACES
STANDARD SPACES	124 SPACES
PARKING ACCIDENT	1 PERSON
PERSON CIRCUMFERENCE	100 FEET

NOTE:
 SITE PLANNING BASED ON TIER AND DEVELOPMENT CIRCUMFERENCE
 BASED FROM PREPARATION OF LATEST CONCEPT PLAN (REVISED)
 OCTOBER 1, 2017
 *40 PARKING SPACES LOCATED WITHIN CONTROLLED ACCESS
 PARKING AREA



JANUARY 11, 2020

PALMETTO DUNES

DUNES HOUSE PARKING STUDY COMPOSITE

HILTON HEAD ISLAND, SOUTH CAROLINA

PREPARED FOR:
 PALMETTO DUNES POA

PREPARED BY:

J. K. TILLER ASSOCIATES, INC.
 12400 WOODBRIDGE DRIVE
 SUITE 100
 GREENSBORO, NC 27409
 TEL: 336.733.7777
 WWW.JKTILLER.COM

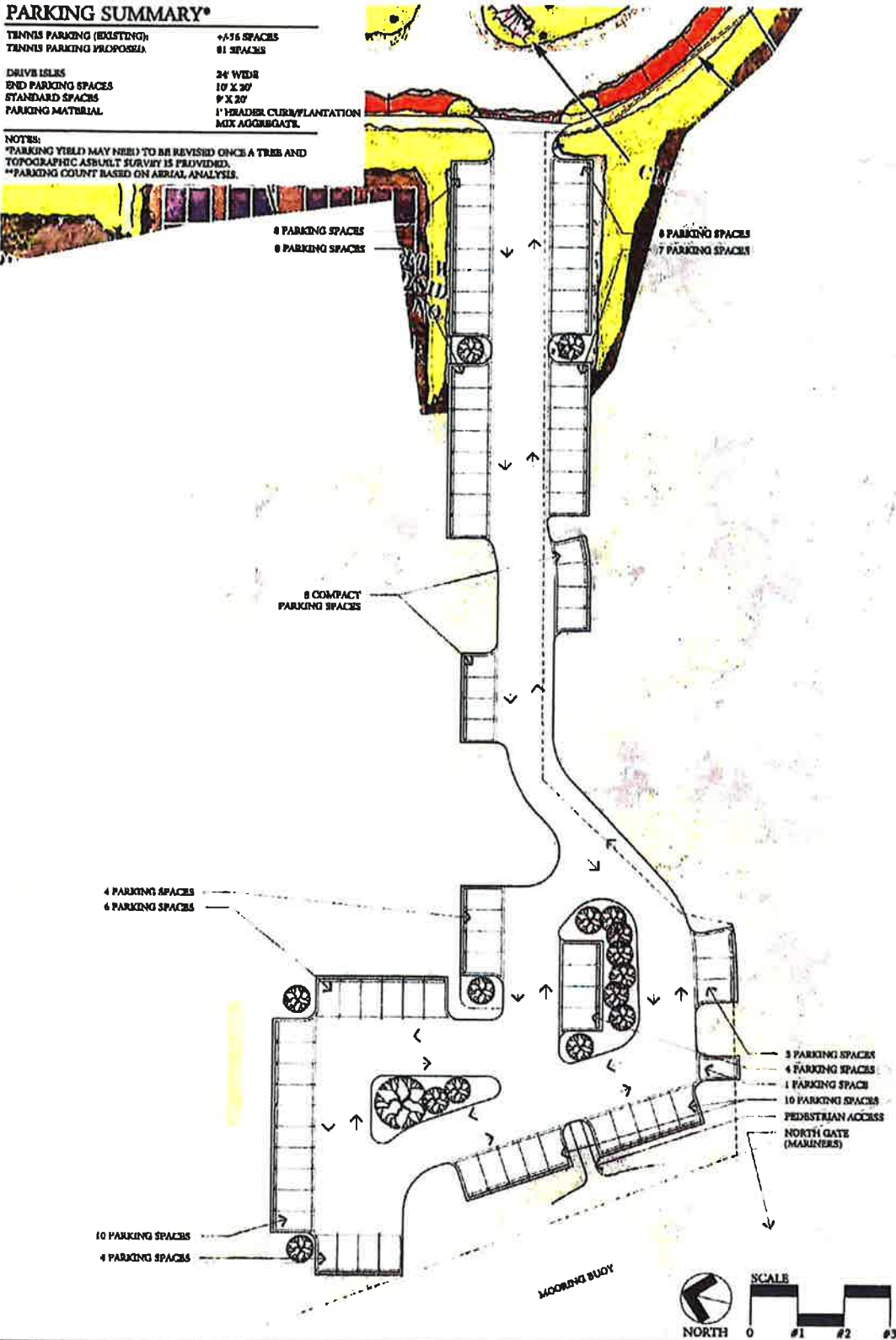
THIS IS A CONCEPTUAL PLAN AND IS SUBJECT TO CHANGE. ALL SERVICE INFORMATION AND SITE INFORMATION WERE COLLECTED FROM A VARIETY OF SOURCES INCLUDING VISUAL SURVEYS, AERIAL PHOTOGRAPHS, AND PUBLIC RECORDS. THE INFORMATION IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A GUARANTEE OF ACCURACY OR COMPLETENESS. THE USER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY AND COMPLETENESS OF THE INFORMATION. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

EXHIBIT B

PARKING SUMMARY*

TENNIS PARKING (EXISTING)	+556 SPACES
TENNIS PARKING PROPOSAL	81 SPACES
DRIVE ISLES	24' WIDE
END PARKING SPACES	10' X 20'
STANDARD SPACES	9' X 20'
PARKING MATERIAL	1" HEADER CURB/PLANTATION MIX AGGREGATE

NOTES:
 *PARKING YIELD MAY NEED TO BE REVISED ONCE A TREE AND TOPOGRAPHIC ASBUILT SURVEY IS PROVIDED.
 **PARKING COUNT BASED ON AERIAL ANALYSIS.



PREPARED FOR:
 PALMETTO DUNES POA

PREPARED BY:
 J. K. TILLER ASSOCIATES, INC.

**PALMETTO DUNES
 TENNIS PARKING STUDY**
 TOWN OF HILTON HEAD, SOUTH CAROLINA

DECEMBER 10, 2019

THIS IS A CONCEPTUAL PLAN AND IS SUBJECT TO CHANGE. ALL SURVEY INFORMATION AND SITE INFORMATION HAS BEEN OBTAINED FROM A VARIETY OF SOURCES AT VARIOUS TIMES AND AS SUCH ARE OFFERED TO BE USED ONLY AS A GUIDE. ALL PROPERTY LINES, TRACT DIMENSIONS AND HABITAT DESCRIPTIONS ARE FOR CLARIFICATION PURPOSES ONLY, AS AN AID TO SITE LOCATION AND POTENTIAL LAND USE, AND ARE NOT LEGAL REPRESENTATIONS AS TO FUTURE USES OR LOCATIONS. J. K. TILLER ASSOCIATES, INC. ASSUMES NO LIABILITY FOR ITS ACCURACY OR STATE OF COMPLETION, OR FOR ANY DELAYS (INCLUDING ACCIDENTS) THROUGH THE USES THAT MAY BE MADE BASED ON THIS INFORMATION. DTJ Job Number: 20191740

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Exhibit C
FOOD AND BEVERAGE GUIDELINES
DUNES HOUSE

Background

As a component of developing and operating a world-class owner beachfront amenity, the availability of a high-quality, diverse food and beverage (F&B) service is highly desirable. Such an F&B service:

- Enables owners to conveniently gather and enjoy each other's company over meals and drinks.
- Reduces the complexity, liability, and costs as the POA, itself, is not staffing and operating a functioning commercial kitchen.
- Avoids the need for the POA to obtain a wine, beer or liquor license—and manage licenses/legalities associated with serving alcohol.

Based upon the above, it is desirable that our F&B provider be vibrant, successful and have an intrinsic and financial desire to serve the POA Unit. In meeting this objective, it is expected that the Dunes House provides:

- F&B the owners desire
- Quality food and beverages
- Timely and reliable service
- Consistent pricing with the Dunes House Unit (including Happy Hours, drink specials, etc.), less any owner discount

The goal is to develop a policy that meets the following criteria:

- Easy to enforce and communicate
- Provides owners a convenient way for F&B directly from the Dunes House
- Provides owners flexibility with other F&B options

BYO Guidelines

- B is limited to packaged beverages such as soda, wine, and beer (we do not want people mixing drinks). However, pre-made drinks in a tumbler will be allowed.
- F&B must be in unlabeled packaging. For example, items purchased at a store (i.e., bag of pretzels) must be in a bag.
- F&B must be brought up to the POA Unit without passing through the Dunes House (unlabeled equipment and personnel can use the elevator).
- No part of the Dunes House Unit (specifically, the first-floor deck) can be used.
- A pre-approved list of at least three caterers, one of which will be Dunes Catering, will be determined for private or POA functions. Owners can choose from list on an annual basis provided by the POA and PDR.
- The caterer will not have access to the Dunes House kitchen or bar—but can use the POA catering kitchen and any bar within the POA Unit.
- Labelled catering vehicles, such as delivery trucks, vehicles, or equipment, cannot be parked adjacent to the building—except for momentary unloading—and then must be parked away/out of sight from the structure as to not undermine the Dunes House brand or reputation.
- As a world-class resort, we are not encouraging “brown bags” or coolers to be carried to or used within our POA Unit. Coolers/hot food bags can be used to transport food items to and from the facility.

Prohibitions

- The catering kitchen is only for caterers and clubs to warm food – not cook and/or keep items cold.
- F&B deliveries from restaurants, sandwich shops, etc. will not be permitted to the POA Unit, unless the Dunes House is closed.
- F&B will not be stored within the POA Unit.
- Alcohol shall not be stored within the POA Unit.
- F&B coin/bill-operated vending machines will not be available within the POA Unit.

BYO before 5pm

Owners as well as current or future officially recognized Palmetto Dunes social groups such as the Women’s Club, etc. (which typically meet monthly, mid-week during the day) can bring in their own F&B to the POA Unit – or use the Dunes House F&B services.

BYO after 5pm

All F&B would have to be purchased from the Dunes House. However, there will be one dedicated evening per week where owners can bring their own F&B. Normal guidelines and prohibitions apply.

POA Unit Rentals

POA or Owner-sponsored events whereby *the entire POA Unit (or floor) is rented* can use any external, POA-approved caterer for F&B service, including the Dunes House.

Unavailability to Serve the POA Unit

Owners may bring their own F&B to the POA Unit during periods when the Dunes House is closed (such as early mornings for breakfast, etc.) or unavailable to provide F&B service the POA Unit (such as during a first-floor catered event, etc.). The Dunes House operating hours and schedule will be shared so owners are aware when service to the POA Unit will be unavailable.