

RESOLUTION NO. 2010- 156

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF A LICENSE TO USE/HOLD HARMLESS AGREEMENT BETWEEN ST. JOHNS COUNTY AND VILANO TOWN CENTER PARTNERS, LLC, AND AUTHORIZING THE CHAIR OF THE BOARD TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY.

RECITALS

WHEREAS, Vilano Town Center Partners, LLC, (“VTCP”) is currently under contract to purchase the property located at the northwest corner of Vilano Road and Coastal Highway with the intent on developing said property as a grocery anchored development; and

WHEREAS, St. Johns County (“County”) owns the portion of the unopened First Street (“First Street”), south of Poplar Avenue, and the portion of the opened right-of-ways known as Poplar Avenue, Vilano Road, and Coastal Highway (“County’s right-of-ways”) which are directly adjacent to the proposed development; and

WHEREAS, due to limited parking, VTCP has requested from the County the use of First Street for the construction of parking spaces and improvements consistent with the development, and has requested that the parking spaces within the County’s right-of-ways remain unencumbered from any devices such as parking meters that would charge the public for parking and that the public shopping in the development would have the non-exclusive right to park in said parking spaces so long as the lease between VTCP and the grocery anchor remains in full force and effect; and

WHEREAS, the County has agreed to allow VTCP to use First Street and the County’s right-of-ways for the purposes mentioned above together with terms and conditions and VTCP has agreed to indemnify and hold the County harmless from damages and expenses which may be incurred as a direct or indirect result of such use and has agreed to execute and join in with the County in the License to Use/Hold Harmless Agreement attached hereto as Exhibit “A”, incorporated by reference and made a part hereof; and

WHEREAS, adoption of this Resolution will help stimulate the economy of the area that will ultimately benefit the citizens of St. Johns County.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

Section 2. The License to Use/Hold Harmless Agreement is approved and the Chair of the Board is authorized to execute the agreement on behalf of the County.

Section 3. The Clerk is instructed to record the original License to Use/Hold Harmless Agreement in the Public Records of St. Johns County, Florida.

Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

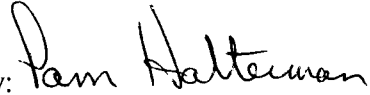
PASSED AND ADOPTED this 3rd day of August, 2010.

**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

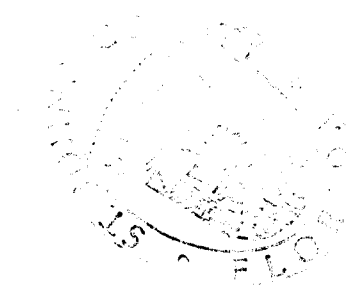
By: 

Ron Sanchez, Chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk

RENDITION DATE 8/5/10



LICENSE TO USE/HOLD HARMLESS AGREEMENT

This Agreement is made and entered into this ____ day of _____, 2010, by and between:

St. Johns County, Florida, a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, ("County"); and

Vilano Town Center Partners, LLC, a Florida limited liability company, whose address is 2101 Centrepark West Drive, Suite 100, West Palm Beach, Florida 33409, ("VTCP").

Recitals

WHEREAS, VTCP is currently under contract to purchase the property located at the northwest corner of Vilano Road and Coastal Highway located in St. Johns County, Florida, as further described in Exhibit A attached hereto ("Property"), with the intent on developing said Property as a grocery anchored development ("Development") consistent with the site plan attached as Exhibit B ("Site Plan"); and

WHEREAS, VTCP intends to construct and have exclusive use of parking spaces and improvements which are to be located within certain County Property known as that portion of First Street and adjacent strip of land south of Poplar Avenue located in St. Johns County, Florida, as described on attached Exhibit "C" and as indicated on the Site Plan ("First Street"); and

WHEREAS, the County has agreed to allow VTCP, its tenants, guests, customers and invitees to use First Street for the construction of and exclusive use of the parking spaces and improvements consistent with the Site Plan only if VTCP agrees to indemnify and hold the County harmless, to the extent permitted by Florida law, from damages and expenses which may be incurred as a direct or indirect result of such use of First Street and certain other conditions.

WHEREAS, the proposed grocer anchor located in the Development ("Grocer") has required that those certain parking spaces (the "Parking Spaces") which are located directly adjacent to the Property within certain County right-of-ways known as Poplar Avenue, Coastal Highway, and Vilano Road, located in St. Johns County, Florida, in the areas more particularly indicated on the Site Plan (collectively, "County's Right-of-Way"), be unencumbered from any devices such as parking meters that would charge the public for parking within the Parking Spaces and that people shopping in the Development will have a non-exclusive right to park within said Parking Spaces; and

WHEREAS, the County has agreed to not meter the Parking Spaces or otherwise charge the public for parking in the Parking Spaces and to grant to VTCP, its tenants, guests, customers and invitees a non-exclusive license and right to use the County's Right-of-Way and VTCP agrees to indemnify and hold the County harmless, to

the extent permitted by Florida law, from damages and expenses which may be incurred as a direct or indirect result of such use of the Parking Spaces and certain other conditions.

NOW, THEREFORE, based upon good and valuable consideration and mutual covenants of the parties, the receipt of which and sufficiency of which is hereby acknowledged, the County and VTCP agree as follows:

Section 1. Recitals. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Agreement.

Section 2. First Street Parking Utilization and Payment. The County hereby grants to VTCP and its tenants, guests, customers and invitees (i) an irrevocable license and right to construct the parking spaces and improvements on First Street consistent with the Site Plan, and (ii) an irrevocable exclusive license and right to use such parking spaces and improvements on First Street, provided that such improvements shall at all times be used for parking purposes, which parking spaces shall not have any devices such as parking meters that would charge the public for parking within the parking spaces. VTCP will pay the County an amount of \$1,328.43 per year for such use. In the event VTCP acquires fee simple title to the First Street property, this Section 2 shall be of no further force and effect, but the balance of this Agreement shall remain in effect.

Section 3. County's Right-of-Way Utilization. County hereby grants to VTCP and its tenants, guests, customers and invitees a non-exclusive license and right to park within the Parking Spaces constructed in the County's Right-of-Way, and further covenants, agrees and warrants that so long as Publix Super Markets, Inc., an affiliated company, their respective successors and/or assigns ("Grocer") owns or has a right to occupy all or a portion of the Development (including without limitation as a partner of or shareholder in VTCP, under a license or lease agreement with VTCP or other owner, lessor, or occupant of the Development), but in no event longer than 60 (Sixty) years, the County shall not and shall not permit any other party to place parking meters or any other device or program that would charge the public for parking within the Parking Spaces.

Section 4. Indemnification. To the extent permitted by Florida law, VTCP agrees to protect, defend, indemnify and hold the County, its tenants, elected officials, officers, employees and agents, free and unharmed from and against any, and all, third party (including employees of VTCP and its contractors and subcontractors) claims, liability, losses and /or cause of action, which may arise from any negligent act or omission of the VTCP staff, employees or agents (including court costs and reasonable attorneys' fees) associated with or connected with the use of the County's right-of-way by VTCP.

Section 5. Covenant with Land. This Agreement shall touch and concern the Property, First Street and the County's Right-of-Way and shall be a covenant running with the fee interest underlying the Property, First Street and the County's Right-of-Way, whether in existence on the date hereto or constructed in the future.

Section 6. Severability. If any word, phrase, sentence, part, subsection, section or other portion of this Agreement, or any application thereof, to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion or the proscribed application thereof, shall be severable, and the remaining portion of this Agreement, and all applications thereof, not having been declared void, unconstitutional or invalid shall remain in full force and effect.

Section 7. Governing Law and Venue. This Agreement shall be constructed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Agreement shall be in St. Johns County, Florida.

Section 8. Procedure for Achieving Assignment. In light of the scope and rationale for this Agreement, except to the extent otherwise expressly stated herein, neither the County, nor VTCP may assign, transfer and/or sell any of the rights noted in this Agreement separate from the sale of the Property without the express written approval of the other party. The previous provision to the contrary notwithstanding, in the case of a sale or transfer of the Property, the rights granted herein shall run with the title to the Property. Should VTCP attempt to assign, transfer or sell any of the rights of the Agreement, except as allowed under this Agreement, without such prior express written approval of the County, then such action on the part of VTCP shall result in the automatic termination of this Agreement, without further notice or action required on the part of the other party.

Section 9. Amendments to Agreement. Both the County and VTCP acknowledge that this Agreement constitutes the complete agreement and understating of both parties. Both the County and VTCP acknowledge that any amendments to this Agreement shall be in writing and shall be executed by duly authorized representatives of both the County and VTCP. VTCP's consent shall not be binding or effective unless joined by Grocer in writing, in Grocer's sole discretion.

Section 10. Access to Records. The access to, disclosure, non-disclosure or exemption of records, data, documents and materials associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes).

Section 11. Rights of Grocer. The parties deem Grocer to be an express third-party beneficiary to this Agreement and hereby agree Grocer shall have the right (but not the obligation) to enforce this Agreement, and to avail itself of the remedies provided herein or otherwise at law or in equity for violation hereof, to no lesser extent as VTCP, its successors or assigns.

IN WITNESS WHEREOF, the County and VTCP have caused these presents to be executed on the day and year first written above.

Signed, sealed and delivered
in our presence as Witnesses:

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

(sign) _____
(print) _____

By: _____
Its _____

(sign) _____
(print) _____

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by _____ as _____ of St. Johns County, Florida, a political subdivision of the State of Florida, on behalf of the County, who is personally known to me or has produced _____ as identification.

Notary Public
My Commission Expires: _____

Signed, sealed and delivered

**VILANO TOWN CENTER
PARTNERS, LLC**

in our presence as Witnesses:

(sign) _____
(print) _____

By: _____
Its _____

(sign) _____
(print) _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by _____ as _____ of Vilano Town Center Partners, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or has produced _____ as identification.

Notary Public
My Commission Expires: _____

Exhibit "A"

Legal Description for the Overall Shopping Center

PARENT PARCEL DESCRIPTION (by Surveyor)

A parcel of land situated in Sections 4 and 9, Township 7 South, Range 30 East, St. Johns County, Florida and being more particularly bounded and described as follows:

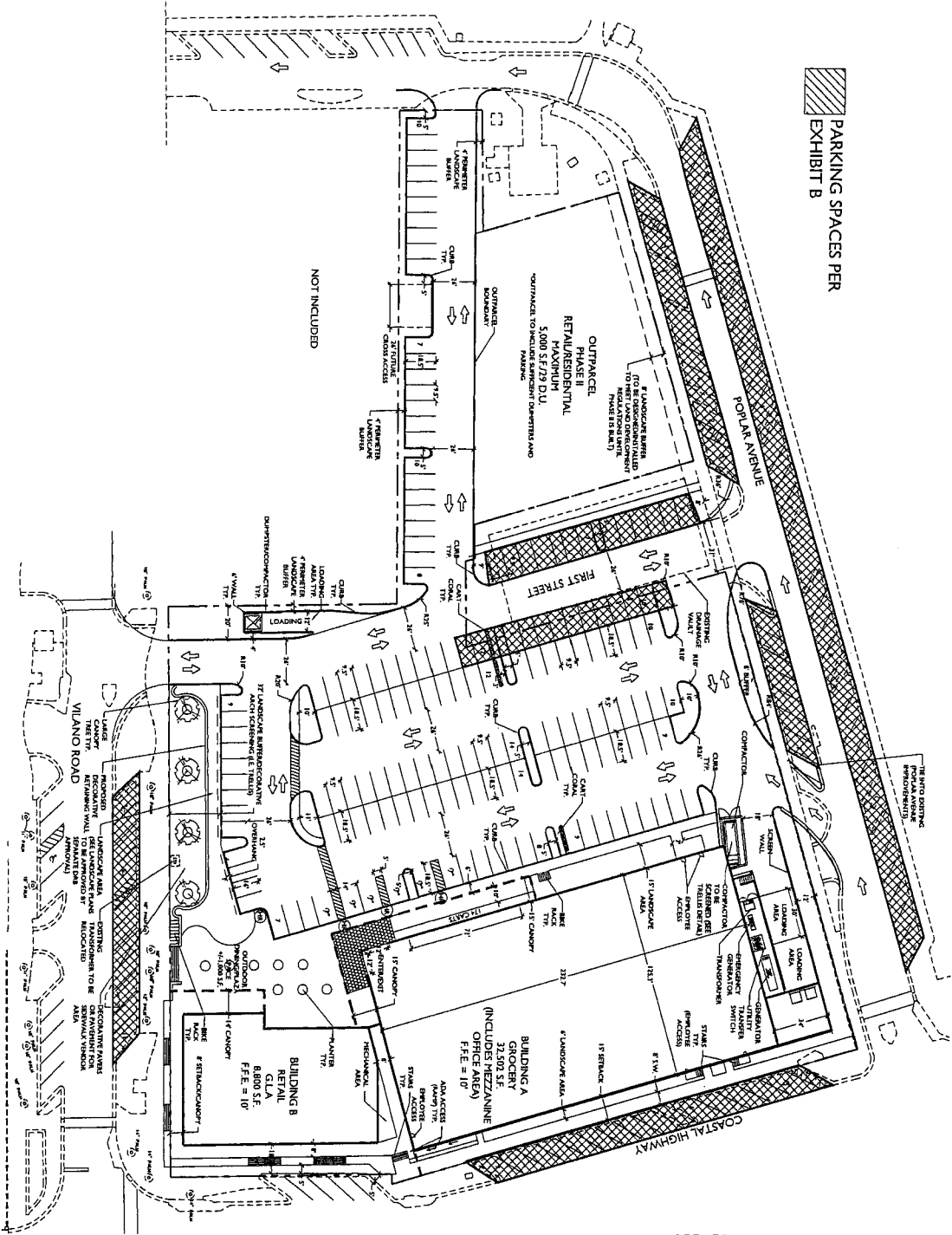
BEGIN at the Southwest corner of Lot 17, Block 3, Vilano Beach, Unit A as recorded in Map Book 4, page 48 of the Public Records of said St. Johns County; thence North 0°11'05" West, along the west line of said Lot 17, a distance of 141.42 feet to the North Line of a 25 foot alley as depicted on said Plat of Vilano Beach, Unit A; thence South 89°32'55" West, along said North Line of a 25 foot alley, a distance of 300.02 feet to the East Right of Way Line of Poplar Avenue, as it currently exists; thence North 01°11'05" West, along said East Right of Way Line, a distance of 50.89 feet; thence North 88°41'31" East, along the south line of those lands described in Official Records Book 2908, page 166 of said Public Records, a distance of 74.13 feet; thence North 16°34'26" West, along easterly line of those lands described in Official Records Book 2908, page 166 of said Public Records, a distance of 87.28 feet to the South Right of Way Line of Poplar Avenue, as it currently exists; thence North 73°25'34" East, along said South Right of Way Line, a distance of 170.00 feet to the West Line of those lands described in Official Records Book 2908, page 163 of said Public Records; thence South 16°34'26" East, along said West Line of those lands described in Official Records Book 2908, page 163 of said Public Records, a distance of 140.72 feet; thence North 88°41'31" East, a distance of 20.73 feet to the West Right of Way Line of First Street, as it currently exists; thence North 88°41'33" East, a distance of 20.73 feet to the West Right of Way Line of First Street, as it currently exists; thence South 16°34'26" East, along said West Right of Way Line of First Street, a distance of 6.11 feet; thence North 88°41'36" East, a distance of 51.83 feet to the East Right of Way Line of First Street, as it currently exists; thence North 16°34'26" West, along said East Right of Way Line of First Street, a distance of 185.94 feet to the said South Right of Way Line of Poplar Avenue; thence North 73°25'34" East, along said South Right of Way Line of Poplar Avenue, a distance of 300.00 feet to the Westerly Right of Way Line of Coastal Highway, as it currently exists; thence South 16°34'26" East, along said Westerly Right of Way Line, a distance of 297.60 feet to the said North Line of a 25 foot alley; thence South 89°32'55" West, along said North Line, a distance of 8.08 feet; thence South 01°11'05" East, along the East Line of Lot 29 of said Block 3, a distance of 137.01 feet to the North Right of Way Line of Vilano Road, as it currently exists; thence South 88°48'55" West, along said North Right of Way Line of Vilano Road, a distance of 344.50 feet to the POINT OF BEGINNING.

The aforescribed Parcel contains 159,890 square feet or 3.67 acres, more or less

Exhibit "B"

Site Plan with areas cross-hatched for parking

PARKING SPACES PER EXHIBIT B



SITE DATA

TOTAL SITE AREA	153,980 SF (3.54 AC)
EXISTING RESIDENTIAL DENSITY (8 DU/AC)	728 DU
TOTAL SQUARE FOOTAGE INCLUDING FUTURE PHASE II	12,823 SF
TOTAL SQUARE FOOTAGE INCLUDING MEZZANINE	8,800 SF
EXISTING RETAIL (PHASE II)	5,995 SF
FUTURE RESIDENTIAL	731 DU
GOCCERY (1.5 PER 500 SF)	33 SF
OUTPACE (1.5 PER 500 SF)	33 SF
TOTAL PARKING PROVIDED (ONSITE)	1,622 SP
TOTAL PARKING REQUIRED	1,622 SP
TOTAL LANDSCAPE AREA REQUIRED	14,407 SF
TOTAL LANDSCAPE AREA PROVIDED	14,407 SF
NUMBER OF STORES	1
NUMBER OF FUTURE OUTPACE TO BE PROVIDED	0
NUMBER OF FUTURE GOCCERY TO BE PROVIDED	0
NUMBER OF FUTURE RETAIL TO BE PROVIDED	0
NUMBER OF FUTURE MEZZANINE TO BE PROVIDED	0

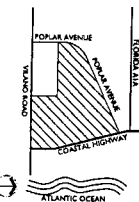


EXHIBIT B - SITE PLAN

SCALE: 1/8" = 1'-0"

DRAWN BY: [Name]

CHECKED BY: [Name]

DATE: 11/13

PROJECT: VILANO BEACH TOWN CENTER

DATE: 11/13

SHEET #

ALL DRAWINGS, EXCEPT NOTES AND LEGENDS, ARE THE PROPERTY OF LAND DESIGN SOUTH. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF LAND DESIGN SOUTH.

VILANO BEACH TOWN CENTER
 PREPARED FOR VILANO TOWN CENTER PARTNERS, LLC
 VILANO BEACH, FLORIDA

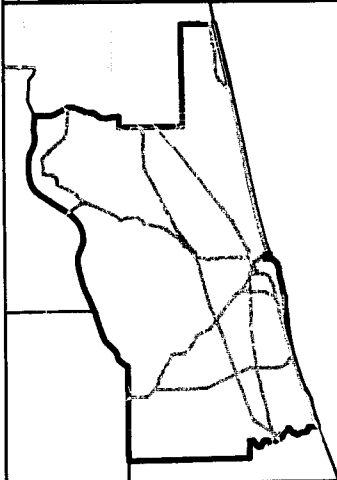
LAND DESIGN SOUTH
 Planning | Landscape Architecture
 Environmental Services | Transportation

2101 Centrepark West Drive, Suite 1100 • West Palm Beach, FL 33409
 Telephone: 561-418-8501 • Fax: 561-478-5012

Exhibit "C"

A part of Block "QQ", and First Street as depicted in Unit "A" of Surfside as recorded in Map Book 4, page 32 of the Public Records of St. Johns County, Florida and being more particularly bounded and described as follows:

BEGIN at the Northeast corner said Block "QQ"; thence North $73^{\circ}25'34''$ East, along the South line of Poplar Avenue, as it currently exists, a distance of 50.00 feet to the Northeast Corner of said First Street; thence South $16^{\circ}34'26''$ East, along the East Line of said First Street, a distance of 165.94 feet; thence South $88^{\circ}41'36''$ West, along the North Line of those lands described in Official Records Book 2889, page 1512 of said Public Records, a distance of 51.83 feet to the West Line of said First Street; thence North $16^{\circ}34'26''$ West, along said West Line, a distance of 6.11 feet; thence South $88^{\circ}41'31''$ West, along the South Line of those lands described in Official Records Book 2908, page 163 of said Public Records, a distance of 20.73 feet; thence North $16^{\circ}34'26''$ West along the West Line of those lands described in Official Records Book 2908, page 163 of said Public Records, a distance of 140.72 feet to the North Line of said Block "QQ"; thence North $73^{\circ}25' 34''$ East, along said North Line of Block "QQ", a distance of 20.00 feet to the POINT OF BEGINNING.



License Agreement Vilano Town Center Parking

0 50 100 200 300 Feet

St. Johns County
Land Mgmt Systems
Real Estate Division



Map Prepared:
July 16, 2010
(904) 209-0790



2009 Aerial Imagery

DISCLAIMER.
This map is for reference use
only. Data provided are derived
from multiple sources with
varying levels of accuracy.