

DPQJ-1



## Board of County Commissioners

2401 SE Monterey Road  
Stuart, Florida 34996

### Agenda Item Summary

COUNTY  
EXHIBIT # 1

File ID: 20-1061

DPQJ-1

Meeting Date: 9/29/2020

**PLACEMENT:** Departmental - Quasi-Judicial

**TITLE:**

**REQUEST BY IMPEDANCE BAILE, LLC FOR APPROVAL OF ANCILLARY RETAIL USE WITHIN THE COR-1 ZONING DISTRICT**

**EXECUTIVE SUMMARY:**

Impedance Baile LLC is requesting approval of ancillary retail use in the form of a 750 square foot convenience restaurant within a proposed 11,000 square foot office building within the COR-1 zoning district. The 1.11-acre vacant parcel is located on the east side of South Kanner Highway approximately 1,200 feet north of the intersection of Salerno Road and South Kanner Highway in Stuart.

**DEPARTMENT:** Growth Management

**PREPARED BY:** Name: Matt Stahley  
Title: Senior Planner

**REQUESTED BY:** Impedance Baile, LLC (Owner)

**PRESET:**

**PROCEDURES:** Quasi-Judicial

FILED FOR RECORD  
COMMISSION RECORDS  
MARTIN COUNTY FL  
Date 9/29/2020  
CAROLYN TIMMANN  
CLERK OF CIRCUIT COURT  
D.C.

**BACKGROUND/RELATED STRATEGIC GOAL:**

Impedance Baile LLC is requesting approval of ancillary retail use in the form of a 750 square foot convenience restaurant within a proposed 11,000 square foot office building within the COR-1 zoning district. The 1.11-acre vacant parcel is located on the east side of South Kanner Highway approximately 1,200 feet north of the intersection of Salerno Road and South Kanner Highway in Stuart.

A minor final site plan application for the 11,000 square foot office building and associated infrastructure is currently being reviewed under project number I059-003.

Article 3, Division 3, Section 3.56.1 of the Martin County Land Development Regulations permits ancillary retail in any COR zoning District as follows:

3.56.1.A. Ancillary retail uses are limited to general restaurants, convenience restaurants, commercial day care, limited retail sales and services, which are conducted in conjunction with a residential development, office development or mix of residential and office uses.

3.56.1.B. The accessory retail use shall be located within the same building as a principal use permitted within the zoning district.

3.56.1.C. The building containing the principal use shall have a minimum of 10,000 square feet of gross floor area devoted to the principal use.

3.56.1.D. The accessory retail use shall occupy no more than ten percent of the gross floor area of the overall project.

3.56.1.E. Signs advertising an ancillary retail use shall not exceed 20 square feet in total area per business and shall not be illuminated.

3.56.1.F. Proposed ancillary retail uses shall be reviewed at a public meeting by the Local Planning Agency. The Local Planning Agency shall make a recommendation to the Board of County Commissioners as to the appropriateness of the proposed use at the proposed location. At a minimum, the Local Planning Agency shall determine whether the principal use meets the bufferyard requirements of Article 4, Division 15, of the Land Development Regulations.

3.56.1.G. Proposed ancillary retail uses shall be reviewed at a public meeting by the Board of County Commissioners. The Board of County Commissioners shall review the recommendation of the Local Planning Agency and approve, approve with modifications or deny the request for the proposed ancillary retail use. Where the proposed ancillary retail use is part of a Standard Development, Minor Development or other application that does not require final action by the Board of County Commissioners, no final site plan shall be approved until the Board of County Commissioners has made a determination as to the proposed ancillary retail use in accordance with this subsection.

Staff has reviewed the request and finds it complies with Article 3, Division 3, Section 3.56.1 of the Martin County Land Development Regulations and recommends approval of the request for ancillary retail in the COR-1 Zoning District. Consideration of the request by the Local Planning Agency is scheduled for September 17<sup>th</sup>.

The following supporting Materials are attached to this agenda item:

- Resolution to approve ancillary retail use.
- Application materials requesting approval of ancillary retail use.
- Resolution to deny ancillary retail use.

#### **ISSUES:**

None

#### **LEGAL SUFFICIENCY REVIEW:**

Because this request involves the application of a policy specific application and site, it is a quasi-judicial decision. Quasi-judicial proceedings must be conducted with more formality than a legislative proceeding. In quasi-judicial proceedings, parties are entitled - as a matter of due process - to cross examine witnesses, present evidence, demand that witnesses testify under oath, and demand a decision that is based on a correct application of the law and competent substantial evidence in the record.

#### **RECOMMENDED ACTION:**

#### **RECOMMENDATION**

1. Move that the Board receive and file the Agenda item summary and all its attachments for the

record as Exhibit 1.

2. Move that the Board approve the resolution for the ancillary retail use in the COR-1 Zoning District for Impedance Baile, LLC.

#### ALTERNATIVE RECOMMENDATIONS

Move that the Board continue the request for ancillary retail in the COR-1 Zoning District to a date certain.

#### FISCAL IMPACT:

#### RECOMMENDATION

The applicant has paid the \$179.00 fee.

Funding Source	County Funds	Non-County Funds
Subtotal		
Project Total		

#### ALTERNATIVE RECOMMENDATIONS

None

#### DOCUMENT(S) REQUIRING ACTION:

- ☐ Budget Transfer / Amendment   ☐ Chair Letter   ☐ Contract / Agreement  
☐ Grant / Application   ☐ Notice   ☐ Ordinance   ☒ Resolution  
☐ Other:

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**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA  
DEVELOPMENT ORDER**

**RESOLUTION NUMBER 20-**

**[REGARDING APPROVAL OF ANCILLARY RETAIL USE WITHIN COR-1 ZONING  
DISTRICT FOR IMPEDANCE BAILE, LLC]**

**WHEREAS**, this Board has made the following determinations of fact:

1. Impedance Baile, LLC, submitted an application for ancillary retail use in COR-1 Zoning District pursuant to Section 3.56.1, Land Development Regulations, Martin County Code, on lands legally described in Exhibit A, attached hereto.
2. The Local Planning Agency considered the request for ancillary retail use at a public meeting on September 17, 2020. The LPA's recommendations were forwarded to the Board of County Commissioners.
3. This Board considered such application at a public meeting on September 29, 2020.
4. At the public meeting, all interested parties were given an opportunity to be heard.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:**

A. The request for ancillary retail use in the form of a 750 square foot convenience restaurant within a proposed 11,000 square foot office building in COR-1 Zoning District pursuant to Section 3.56.1, Land Development Regulations, Martin County Code is approved for the lands legally described in Exhibit A, attached hereto.

B. This approval does not authorize any construction or development activity associated with the separate request for approval of the minor development final site plan application.

C. This resolution shall be recorded in the public records of Martin County. A copy of this resolution shall be forwarded to the applicant(s) by the Growth Management Department subsequent to recording.

**DULY PASSED AND ADOPTED THIS 29TH DAY OF SEPTEMBER 2020.**

ATTEST:

BOARD OF COUNTY COMMISSIONERS

MARTIN COUNTY, FLORIDA

BY: \_\_\_\_\_  
CAROLYN TIMMANN  
CLERK OF THE CIRCUIT COURT  
AND COMPTROLLER

BY: \_\_\_\_\_  
HAROLD E. JENKINS II, CHAIRMAN

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

BY: \_\_\_\_\_  
KRISTA A. STOREY  
SENIOR ASSISTANT COUNTY ATTORNEY

ATTACHMENTS:  
Exhibit A, Legal Description

## **Exhibit A**

### **LEGAL DESCRIPTION:**

LOTS 1, 2, 3 AND 4, ACCORDING TO THE PLAT OF LAKE HAVEN, AS RECORDED IN PLAT BOOK 3, PAGE 103 PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA: LESS AND EXCEPT THAT PORTION DEEDED TO THE STATE OF FLORIDA OF TRANSPORTATION IN OFFICIAL RECORD BOOK 955, PAGE 484, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA.

TOGETHER WITH ONE HALF (1/2) OF THE VACATED ROAD ADJACENT TO THE NORTH LINE OF LOT 1, ALL ACCORDING TO THE PLAT OF LAKE HAVEN, AS RECORDED IN PLAT BOOK 3, PAGE 103, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA.

PARCEL NO: 55-38-41-008-000-00010-8

ACREAGE: 1.11 ACRES



**Impedance Baile, LLC  
Ancillary Retail Request  
June 10, 2020**

Gentile Glas Holloway O'Mahoney & Associates, Inc. as agent for Impedance Baile, LLC is requesting review and approval of an ancillary retail use to be included in the proposed 11,000 square foot office. The parcel is referenced by Lots 1-4 together with ½ of the vacated road adjacent to the property, as recorded in the Plat of Lake Haven, recorded in Plat Book 3, Page 103. The subject site is approximately 1.10 acres and is located on the east side of SW Kanner Highway (State Road 76) in Martin County Florida.

On March 2, 2020 the Board of County Commissioners approved the Mandatory Rezoning change from B-1, Business District (category "C") zoning district designation to COR-1, Commercial/Office/Residential District (category A). This request is consistent with the Commercial/Office/Residential Future Land Use and would be consistent with adjacent existing and proposed uses.

**Section 3.56.1 - Ancillary Retail**

Ancillary retail uses may be permitted in any COR zoning district as follows:

- Section 3.56.1.A – ancillary retail uses are limited to general restaurants, convenience restaurants, commercial day care, limited retail sales and services, which are conducted in conjunction with a residential development, office development or mix of residential and office uses:

**Response: The proposed ancillary retail use is being proposed to provide for a 750 square feet of accessory food/convenience sales.**

- Section 3.56.1B - the accessory retail use shall be located within the same building as the principal use permitted within the zoning district.

**Response: The 750 square feet is within the proposed 11,000 square foot office building.**

- Section 3.56.1.C - the building containing the principal use shall have a minimum of 10,000 square feet of gross floor area devoted to the principal use.

**Response: the proposed office building is 11,000 square feet including the 750 square feet of accessory food/convenience sales.**

- Section 3.56.1.D - the accessory retail use shall occupy no more than ten percent of the gross floor area of the overall project.

**Response: The maximum allowable ancillary retail is limited to 1,100 square feet (10%) of the proposed building. Proposed is a 750 square foot area for accessory food/convenience sales.**

- Section 3.56.1.E – signs advertising an ancillary retail use shall not exceed 20 square feet in total area per business and shall not be illuminated.

**Response: Comment noted.**

- Section 3.56.1.F – proposed ancillary retail uses shall be reviewed at a public meeting by the Local Planning Agency. The Local Planning Agency shall make a recommendation to the Board of County Commissioners as to the appropriateness of the proposed use at the proposed location. At a minimum, the Local Planning Agency shall determine whether the principal use meets the buffer yard requirements of Article 4, Division 15, of the Land Development Regulations.

**Response: Comment noted.**

- Section 3.56.1.G – proposed ancillary retail uses shall be reviewed at a public meeting by the Board of County Commissioners. The Board of County Commissioners shall review the recommendation of the Local Planning Agency and approve, approve with modifications or deny the request for the proposed ancillary retail use. Where the proposed ancillary retail use is part of a standard development, minor development or other application that does not require final action by the Board of County Commissions has made a determination as to the proposed ancillary retail use in accordance with this subsection.

**Response: Comment noted.**

### **Land Use and Zoning**

The current Future Land Use Designation is Commercial/Office Residential Land Use with a Zoning District as indicated above COR-1 - Commercial/Office/Residential District (category A).

### **Adjacent Zoning Districts:**

The properties surrounding the subject property are primarily commercial with some established single family units to the east separated by approximately 2.82 acres of lake area; the west side is bordered by Kanner Highway; vacant commercial lots immediately



abutting the property to the south and established commercial properties further south and west.; to the north is green space and SE Southwood Trail;

- **North:** Existing Use: green space then SE Southwood Trail
- **South:** Existing Use: Vacant Commercial  
Future Land Use: Commercial/Office Residential  
Zoning District Designation: Commercial/Office Residential - COR-2
- **East:** Existing Use: existing lake and then single family residential – Lake Haven  
Future Land Use: Low Density Residential  
Zoning District Designation: R-3A, Liberal Multiple Family (Category C)
- **West:** Existing Use: South Kanner Highway (SR 76)

**Access:**

Access to the site will be from SW Kanner Highway.

**Conclusion**

On behalf of the applicant, Gentile Glas Holloway O'Mahoney & Associates, Inc. respectfully request review of the Minor Final Site Plan application. The project managers at Gentile Glas Holloway O'Mahoney & Associates will be Daniel Siemsen and Patricia Lentini.

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**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

**RESOLUTION NUMBER 20-\_\_\_\_**

**[REGARDING DENIAL OF ANCILLARY RETAIL USE WITHIN COR-1 ZONING DISTRICT  
FOR IMPEDANCE BAILE, LLC]**

**WHEREAS**, this Board has made the following determinations of fact:

1. Impedance Baile, LLC submitted an application for ancillary retail use in COR-1 Zoning District pursuant to Section 3.56.1 Martin County Land Development Regulations, for the property described in Exhibit A, attached hereto.
2. The Local Planning Agency was scheduled to hear the application at a public meeting on September 17, 2020. The LPA's recommendations were forwarded to the Board of County Commissioners.
3. This Board considered such application at a public meeting on September 29, 2020.
4. At the public meeting, all interested parties were given an opportunity to be heard.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF  
MARTIN COUNTY, FLORIDA, THAT:**

- A. The request for ancillary retail use in COR-1 Zoning District pursuant to Section 3.56.1, Land Development Regulations, Martin County Code is hereby denied because XXXX.
- B. This resolution shall be recorded in the public records of Martin County. A copy of this resolution shall be forwarded to the applicant(s) by the Growth Management Department subsequent to recording.

**DULY PASSED AND ADOPTED THIS 29TH DAY OF SEPTEMBER, 2020.**

**ATTEST:**

**BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

BY: \_\_\_\_\_  
CAROLYN TIMMANN, CLERK OF  
THE CIRCUIT COURT AND  
COMPTROLLER

BY: \_\_\_\_\_  
HAROLD E. JENKINS II, CHAIRMAN

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

BY: \_\_\_\_\_  
KRISTA A. STOREY,  
SENIOR ASSISTANT COUNTY ATTORNEY

**ATTACHMENTS:**

Exhibit A, Legal Description

## Exhibit A

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PARCEL NO: 55-38-41-008-000-00010-8

ACREAGE: 1.11 ACRES

# Matthew L. Stahley

(772)-320-3047 • mstahley@sfwmd.gov

DPQJ-1

COUNTY  
EXHIBIT # 2

## • Professional Work Experience

### Martin County Growth Management Department • Stuart, FL

Senior Planner • August 2018 to Present

- Reviews proposed developments for conformance with plans and regulations. Consults with developers, individual land-owners, and departments of County government to attain conformance.
- Works in a team environment to improve work methods to accelerate formulation and completion of development reviews, and site compliance monitoring.
- Participates in public meetings and public hearings that can be televised to provide environmental review of development activities. These meetings can be argumentative and opinions/conclusions rendered can be challenged by the applicant or their attorney.

### South Florida Water Management District (SFWMD) • West Palm Beach, FL

Water Use Compliance Supervisor • January 2017 to August 2018

- Responsible for supervising and conducting performance reviews for a team of 7 water use compliance analysts responsible for 16 counties within the SFWMD.
- Provide support for compliance staff located at the Ft. Myers and Orlando service centers.
- Perform quality assurance of all notices of non-compliance and enforcement referrals sent to permittees and consultants.
- Served as the team leader for the Indian Prairie Basin (Glades and Highlands Counties) during water shortage events communicating between the regulated community and the District's operations control room. Closely monitored resource concerns and conducted weekly coordination with Martin County Utilities and South Martin Regional Utilities for spring 2017 water shortage.

### South Florida Water Management District • Okeechobee, FL and West Palm Beach, FL

Scientist 1,2,3-Water Use Compliance and Permitting • December 2008 to January 2017

- Analyze pumpage data, water level data, chloride data, and groundwater/surface water interactions to determine compliance with conditions of irrigation, dewatering, industrial, and other water use permits. (Martin, Okeechobee, Highlands counties)
- Perform inspections of permitted projects to insure compliance with district conditions of permit issuance.
- Utilize knowledge of the District's water use regulatory program and Florida Statutes to review water use applications. Apply analytical and numerical groundwater flow techniques to determine potential impacts on water resources prior to permit issuance.
- Routinely communicate via oral and written correspondence with other scientific professionals and general public on water use issues, and water use permit applications.
- Served as the team leader for the Indian Prairie Basin during water shortage events communicating between the regulated community and the District's operations control room.
- Provided compliance and enforcement training sessions and presentations to new hires, as well as current environmental resource and water use compliance staff.=

FILED FOR RECORD  
COMMISSION RECORDS  
MARTIN COUNTY FL  
Date 9/29/2020  
CAROLYN TIMMANN  
CLERK OF CIRCUIT COURT  
By MKV D.C.



**Allterra Engineering and Testing • West Palm Beach, FL**

Field Geologist and Driller • August 2005 to December 2008

- Performed all geotechnical field tests required for construction of large housing developments and single family homes, and all roadway construction.
- Operated a small truck mounted drill rig to perform soil borings and Penetration tests. Performed soil compaction readings with a nuclear density gauge for house pads, roadway construction, and stormwater and sanitary sewer installation. Conducted test pit inspections for removal of unsuitable material. Performed oversight of auger cast and helical pile installations.

**DLZ Corporation • Columbus, OH**

Field Geologist • June 2004 to July 2005

- Logged soil and rock core samples on a variety of geotechnical drilling projects under the instruction of a project engineer. Projects ranged from Ohio Department of Transportation projects to single monitor well installations.

**Bowser-Morner, Inc • Dayton, OH**

Subsurface Technician • October 2003 to June 2004

- Worked as an assistant to the head driller on environmental and exploratory sonic drilling projects.
- Duties included monitor well installation and abandonment on EPA superfund sites, as well as exploratory borings for potential mining operations.

**•Education**

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- **DePauw University, Greencastle, IN**  
Bachelor of Arts Degree in Geology (August 1999 to May 2003)