

MAY 7, 2002 – LANDUSE HEARING

The Board of County Commissioners, Walton County, Florida, held a Land Use Hearing on Tuesday, May 7, 2002 at 5:00 p.m. at the Coastal Branch Library.

The following Board members were present: Commissioner Tim Pauls, Commissioner Herman L. Walker, Chairman Lane Rees and Commissioner Gene Ryan. Mr. Michael Underwood, County Administrator, and Attorney Gary Vorbeck, Director of Legal Services, were also present. Commissioner Jones was not present due to a prior commitment.

Commissioner Walker led with prayer following the Pledge of Allegiance the American Flag.

Chairman Rees called the meeting to order.

Mr. Jack Arthur informed the Board that Crystal Lake At Sandestin, S & S Materials, Dune Allen Tower, Bayou Creek Office Complex, and Baywalk Landings Subdivision were all continued by the Planning Commission and requested the Commissioners also continue these same issues. The Board agreed.

Mr. Arthur stated that the previous recommendation for Ciboney Condominium Homeowners Abandonment remains the same and stated that the applicant was present to address the Board. Mr. Arthur presented the staff and Planning Commission recommendation as Exhibit 1.

Attorney Amy Perry, representing Ciboney Condominium Homeowners, appeared before the commissioners regarding the abandonment request. Ms. Perry presented a letter containing information relating to the abandonment and commented that she has prepared a proposal for an easement exchange instead of abandonment.

Currently, there are easements that exist on lot 109, 108 and 101. She presented information on how the problem was created and why there is a need for an exchange. Ms. Perry explained that Ciboney received notice of violation from Code Enforcement advising them to file for abandonment. After filing for abandonment they were informed that the county would not abandon the easements. She explained that Ciboney's pool and deck lies within the easement on lot 101 and approximately a 2 ½ foot overhang on lot 108. The only encroachment onto lot 109 is parking. Ciboney will abandon their request for an easement on lot 109, but ask that they be allowed to continue to use and maintain the parking structure on lot 109 until the county requires use of the easement. Ms. Perry explained that Ciboney is requesting the abandonment of the easement in lot 101 in return they would grant to the county an easement of 16.5 feet in addition to the 2.5 feet they are asking to abandon on lot 108. She also asked that the county not impose any fines on Ciboney for parking on the easement.

Mr. Arthur stated that he had no objections to the proposed easement exchange. Commissioner Pauls questioned if the benefit to the county is acceptable.

Motion by Commissioner Pauls, second by Commissioner Ryan to approve the proposed easement as described in order for the easement to run contiguous over lot 109 and 108, subject to approval of Russ Barry. Ayes 4, Nays 0. Pauls Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Arthur presented the Planning Commission's recommendation for approval for Summer's Edge Planned Unit Development and entered their report along with staff's recommendation into the record as Exhibit 2. BRS Joint Ventures is proposing an addition to the existing Planned Unit Development known as Summer's Edge. The

expansion consists of 2.35 acres to bring the total acreage within the P.U.D. to 9.9 acres, and increasing the density by 17 residential units for a total of 75 residential units and 10,000 square feet commercial (within original P.U.D.). This proposal is located on the south side of Eastern Lake Road, just east of the existing P.U.D.

Ms. Cindy Meadows spoke on behalf of the Planning Commission stating that their approval, as amended to include Summer's Edge P.U.D. 2<sup>nd</sup> edition, was recommended for approval contingent upon a beach access easement being dedicated from East Lake Drive to the property's southern boundary line to meet the 5% Recreational Impact Fee and contingent upon approval of the FEMA map. Ms. Meadows explained that the Planning Commission wanted to see the access dedicated to the public and the 5% impact fee be applied to the construction and maintenance of the path.

Commissioner Walker stated that the project needs to be approved based on its own merits because the impact fees are to be used at the Board's direction. Several commissioners voiced concern regarding the Planning Commission stipulating the use of the impact fees. Commissioner Pauls commented that there is no language in the code to allow a developer to say what he would spend the impact fee on. He explained that the 5% might not cover the cost of the improvements.

Attorney Theriaque, representing Mr. Ricky Rookis, applicant, stated that it is his opinion that an exaction of a pedestrian access over private property is unconstitutional. He questioned Mr. Arthur if the project meets the requirements of the Comprehensive Plan and the Land Development Code. Mr. Arthur agreed that it does meet the requirements. Attorney Theriaque asked the Board to approve the project without the requirement of opening an access.

Mr. Russ Aldrich explained how to get to a beach access other than on Mr. Rookis' property. Commissioner Walker questioned if any written permission has ever been granted or recorded from previous owners of the property.

Mr. Rookis addressed the commissioners and stated that he objects to the requirement being imposed.

Mr. Tom Anderson, property owner to the north, spoke about the benefits to the county if the public were allowed to use the access on Mr. Rookis' property.

Ms. Nancy James, South Walton Community Council, spoke about conceptual approval of PUD's and stated those are ok if they provide a well-defined plan, however, these plans are not and they are subject to change. She also questioned what the public benefit of this PUD would be. Ms. James continued reading the statement which outlined the concerns of the project and stated they are opposed to the development over 8 units per acre and to the removal of any native vegetation.

Mr. Tom McGee also voiced concerns regarding the PUD and stated that one requirement of a PUD is that the developer grant amenities to the community.

Mrs. Beverly Kraska, Secretary of the Eastern Lake Neighborhood Homeowners Association explained that pictures from DOT show that access as an easement because it has been used as such for over 30 years to access the beach. She stated that it would be 4/10 of a mile for people to walk to the beach if not allowed to use the access on Mr. Rookis' property.

Attorney Theriaque stated that his client would stipulate that this PUD would only be single-family dwellings with two parking spaces per home. The development would have only 75 units as originally approved. He explained that they are not disturbing the

topography and they are preserving the sand dunes. Attorney Theriaque also stated that the TDC improvements that Mr. Rookis has agreed to participate in financially would also serve the neighbors. Attorney Theriaque read a letter that was given to the TDC stating that BRS Joint Venture would like to participate with TDC in the construction of a beach walkover near Ramsgate. Attorney Theriaque argued that this easement is a permissive prescriptive easement; therefore the public does not have a right to use it. Again, Mr. Theriaque requested approval of the addition to the existing PUD with the same standards of the original PUD and delete the requirement for access through Mr. Rookis' property.

Commissioner Pauls questioned the issue of preservation. Mr. Arthur stated that the total PUD was reviewed regarding preservation and it meets the requirements.

Commissioner Walker questioned the legality of purchasing new property adjacent to an existing PUD thereby enlarging a PUD.

Attorney Theriaque reminded the Board that they are staying within the overall density cap on the initial PUD, which was previously approved for 75 units. He also stated that the dune preservation does provide a public benefit, in addition to the funds being spent on the upgrade of a public access. He again requested approval of the project without the requirement of a public access through Mr. Rookis' property.

Mr. Ricky Rookis addressed the commissioners regarding the amount of funds he will designate toward the public beach access improvement. He advised that he would commit \$25,000.00 to the TDC beach walker. He explained that the access is a substantial structure and that the \$25,000.00 is in addition to the 5% Recreational Impact Fee.

Ms. Judy Rutland voiced concern with residents using the Eastern Lake walkover due to the negative impact on that lake.

Motion by Commissioner Ryan, second by Commissioner Pauls to approve the proposed development of Summer's Edge Planned Unit Development 2<sup>nd</sup> Addition without the requirement of a beach access, single-family dwellings only, payment in the amount of \$25,000.00 by the developer to the TDC for beach access improvements, payment of the 5% Recreational Impact Fee, total 75 units, two (2) parking spaces per home, and all other stipulations previously stated. Ayes 4, Nays 0. Pauls Aye, Walker Aye, Rees Aye, Ryan Aye. Mr. Rookis stated that the neighbors could still use his access with his permission.

Mr. Arthur presented Exhibit 3, a proposed ordinance modifying the development requirements within the 30A Scenic Corridor. He reminded the commissioners of the Hall Traffic Report, which was codified into the Land Development Code, but later disallowed. The 30A Task Force was asked to review the report and present another recommendation. This ordinance is to take the 30A Task Force recommendations and place the changes in the LDC deleting the contrary portions that currently exist. Mr. Arthur requested to set a public hearing to consider adopting the ordinance.

Ms. Judith Williams addressed the commissioners on behalf of the Design Review Board. She stated that they reviewed the proposed ordinance and they are in support of a second public hearing.

Mr. David Kramer presented additional written information for clarity.

Motion by Commissioner Pauls, second by Commissioner Walker to set a public hearing on June 4, 2002 at the next Land Use Hearing to consider the proposed ordinance

modifying the development requirements within the 30A Scenic Corridor. Ayes 4, Nays 0. Pauls Aye, Walker Aye, Rees Aye, Ryan Aye.

Chairman Rees called to order the advertised quasi-judicial hearing and Attorney Vorbeck administered the oath to those individuals speaking.

Mr. Arthur presented the final plat for Coastal Business Center. He stated that the plat has been reviewed and ready for approval.

Attorney Dana Matthews appeared on behalf of the applicant.

Ms. Jennifer Christensen, Planning Technician, advised that the plat has been through the review process and meets all of the requirements. She explained that it is complete other than the landscape and a letter of credit is on file to cover that.

Mr. Matthews reminded the Board that a hearing was held last month regarding the BMW development order. There were two pending items that have since been provided to staff, which was the DEP consent order and the Corps permit.

Mr. Mike Judkins questioned the process of signing off on plats and stated that he feels this project is illegal according to the code. He further questioned who would be responsible for paving the road leading to the development. Mr. Judkins stressed the need for a turn lane leading into the project.

Mrs. Judkins asked if the concerns voiced at the last meeting have been addressed. Mr. Arthur advised that the issues are not relevant to the plat being presented for approval. Mrs. Judkins stated that the applicant has not met the setback requirements, buffer requirements, cul-de-sac requirement, loading and turn lane requirements. She also spoke about the Industrial category. Commissioner Pauls explained that the previous board rezoned this property to Light Industrial, not this board.

Motion by Commissioner Ryan, second by Commissioner Pauls to accept the Coastal Business Center final plat for recording. Ayes 4, Nays 0. Pauls Aye, Walker Aye, Rees Aye, Ryan Aye.

The following final plats were presented for approval: Gateway Condominium, Le Jardin Condominium, and Dunes of Seagrove Condominium. Mrs. Christensen advised that the plats have all been reviewed and met all necessary requirements.

Motion by Commissioner Walker, second by Commissioner Pauls to approve the Gateway Condominium final plat for recording. Ayes 4, Nays 0. Pauls Aye, Walker Aye, Rees Aye, Ryan Aye.

Motion by Commissioner Walker, second by Commissioner Ryan to approve Le Jardin Condominium final plat for recording. Ayes 4, Nays 0. Pauls Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Arthur presented the final plat for Dunes of Seagrove Condominium. Commissioner Pauls questioned if all of the development order conditions have been met, because of a lighting problem that he was made aware of. Mr. Arthur stated that he is aware of restrictions on the lighting at the tennis court in the settlement agreement, however, that has been resolved.

Mr. Tom McGee questioned staff if any changes occurred to the plan or development order after the public hearings that approved the development order. Mr. Arthur stated that he was not here during that time and Mr. Shannon stated that he has no knowledge of any changes. Mr. McGee explained that previous plans did not show a commercial office in front and the current plans do. He also questioned if the lighting is turtle friendly. Commissioner Ryan recalls that special lighting was agreed upon by the



developer. Mr. McGee also voiced other concerns with the development. Commissioner Walker requested to continue this public hearing pending clarification of these issues.

Mr. Houston Leonard, an adjoining neighbor to the Dunes of Seagrove, was told by the developer that an agreement could be entered into. Mr. Leonard explained that the agreement was entered into and became part of the court records. He explained that a 25-foot setback was stipulated, however, the elevator shaft is on his property. He also voiced concern with the tennis court, the narrow road, nuisance of the lighting and the lack of a barrier between his home and the development, which was agreed upon.

Motion by Commissioner Pauls, second by Commissioner Walker to continue this public hearing until the next land use hearing on June 4<sup>th</sup>. Ayes 4, Nays 0. Pauls Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Arthur presented a development proposal for Cingular Wireless who is proposing a wireless communication facility to be placed on the Regional Utilities water tank located within the Seacrest PUD. Both staff and the Planning Commission recommended approval. Mr. Arthur entered their reports into the record as Exhibit 4.

Attorney George R. Miller also requested approval for the tower at Seacrest in addition to the rooftop tower at One Seagrove Place. Mr. Arthur advised that both towers were recommended for approval, Exhibit 5.

Motion by Commissioner Walker, second by Commissioner Pauls to accept the recommendation of the Planning Commission and approve the Cingular Wireless tower at Seagrove and the rooftop tower at One Seagrove Place. Ayes 4, Nays 0. Pauls Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Arthur presented the proposed development for South Bay Professional Plaza. Mr. Charles Rigdon is requesting approval of two (2) 3-story office buildings of 50,537 square feet each for a total of 101,074 square feet on 9.77 acres. The Future Land Use designation of this parcel is "Village Mixed Use". Mr. Arthur explained that the Planning Commission recommended approval with the following conditions: 1) deceleration lane/south-bound turn lane, 2) 0 spillover lighting plan, 3) resubmitting the grading/landscaping plan for staff review and approval and 4) provide handrails on the curbs that are over 30". Mr. Arthur entered the final recommendation into record, Exhibit 6.

Commissioner Pauls recused himself due to the fact that his real estate company has the adjacent property listed and wants to prevent the possibility of any conflict.

Attorney George Miller, representing South Bay Professional Plaza, questioned Mr. Arthur if the project complies with the Walton County Comprehensive Plan and the Land Development Code with the conditions. Mr. Arthur stated that it does comply. Mr. Miller advised that his client is prepared to meet the conditions except the turn lane.

Motion by Commissioner Ryan, second by Commissioner Walker to accept the Planning Commission's recommendation and approve South Bay Professional Plaza without the requirement of the turn lane.

Ms. Cindy Meadows explained the reasons for the Planning Commission's recommendation for a turn lane. She explained that due to the current traffic congestion in the area, they felt that if a turn lane were constructed it would eliminate further congestion and keep traffic flowing. Commissioner Walker asked if this recommendation was based on traffic studies or if the same criteria are always used. She stated that their

decision is based on the road, the surrounding area, and the amount of traffic. Mr. Shannon explained that staff did not recommend the turn lane and the LDC does not require it.

Chairman Rees called for a vote on the motion to approve South Bay Professional Plaza. Ayes 3, Nays 0. Walker Aye, Rees Aye, Ryan Aye.

Mr. Arthur presented a request on behalf of Mr. Louis Seybold for a one-year development order extension. Mr. Seybold appeared before the commissioners to answer questions.

Ms. Celeste Cobena asked that the Board deny the request for an extension. She stated that Walton County is growing at a rapid rate and this development would further enhance the traffic problems.

Motion by Commissioner Pauls, second by Commissioner Ryan to approve Mr Seybold's request for a one-year, one time, development order extension. Ayes 4, Nays 0. Pauls Aye, Walker Aye, Rees Aye, Ryan Aye.

There being no further business, the meeting was adjourned at 7:15 p.m.

APPROVED: \_\_\_\_\_  
Lane Rees, Chairman

ATTEST: \_\_\_\_\_  
Martha Ingle, Clerk of Court