

JUNE 3, 2003- LAND USE HEARING

The Board of County Commissioners, Walton County, Florida, held a Land Use Hearing on Tuesday, June 4, 2003 at 5:00 p.m. at the South Walton Courthouse Annex.

The following Board members were present: Larry Jones, Chair, Tim Pauls, Vice-Chair, Commissioner Lane Rees, Commissioner Kenneth Pridgen, and Commissioner Ro Cuchens. Mr. Michael Underwood, County Administrator, and Attorney Gary Vorbeck, Director of Legal Services, were also present.

Commissioner Rees led with prayer followed by the pledge of allegiance to the American Flag. Chairman Jones called the meeting to order.

Chairman Jones called to order the advertised public hearing to consider the Walton County Adult Business Moratorium Ordinance. Ms. Kira Honse, Staff Attorney, explained that the adoption of the ordinance would establish a moratorium for the development of adult businesses. The moratorium would allow the county six months to conduct necessary studies to review the potential locations of adult businesses and ways that adverse impacts can be minimized. There were no public comments; therefore, the public portion of the hearing was closed.

The Board agreed to hold a second public hearing on July 1, 2003 at 5:00 p.m. to consider adoption of the ordinance.

Chairman Jones called to order the advertised public hearing to consider an amendment to the 30A Ordinance.

Mr. Mike Lane, Planning Director, addressed the Board concerning a private request from Mr. Anthony Derck to consider an amendment to the 30A Ordinance. The request was that .03 miles of County Road 30A from County Road 283 East to

Wilderness Way be considered for change from Rural designation to Town designation. The Planning staff recommended approval.

Chairman Jones opened the floor for public comments.

Ms. Lori Neeman questioned the implications when there is a change from Rural designation to Town designation. Mr. Lane explained the difference between Rural and Town designation. A Rural area allows for a twenty-foot setback, whereas, Town designation allows for a five-foot setback. Predominantly, the development in the area is commercial.

Mr. Lloyd Blue, member of the Wetland Workgroup Committee, spoke about two undeveloped vacant parcels in the area. Mr. Blue spoke about obstructions to the bike path that may be caused by use of signs. Mr. Blue stated that the Grayton Homeowners Association elected to pursue a modified neighborhood plan that would address commercial issues in Grayton Beach.

Ms. Linda Ayer spoke in opposition to the proposed change. Ms. Ayer expressed concern regarding safety issues due to delivery trucks parked on the bike path.

Ms. Betz Hanes, Grayton Beach resident, commended Mr. Blue for his comments. Ms. Hanes spoke in opposition to the change of the setbacks.

The public comments portion of the hearing was closed.

Motion by Commissioner Rees, second by Commissioner Pridgen, to deny the request to change the section on 30A from CR 283 east to Wilderness Way from Rural designation to Town designation. Ayes 5, Nays 0. Rees Aye, Pridgen Aye, Jones Aye, Cuchens Aye, Pauls Aye.

Commissioner Rees requested that Mr. Underwood follow up with Sheriff Ralph Johnson in regards to enforcement of prohibited parking on the bike path.

Motion by Commission Rees, second by Commissioner Cuchens, to adopt a resolution (2003-36) to declare June 2 through June 8, 2003 as “Chamber of Commerce Week” in Walton County. Ayes 5, Nays 0. Rees Aye, Pridgen Aye, Jones Aye, Cuchens Aye, Pauls Aye.

Chairman Jones called the Quasi-judicial public hearings to order and Attorney Vorbeck administrated the oath to those individuals who would be speaking. Each commissioner acknowledged all ex-parte communications that had been received regarding the projects being presented. The commissioners stated that the communications would not affect their ability to make fair and impartial decisions.

Mrs. Jennifer Christensen, Planning Technician, presented the Bayou Gardens final plat for approval. Bayou Gardens is a 3 lot single-family residential subdivision. Staff recommended approval.

Motion by Commissioner Pauls, second by Commissioner Cuchens, to approve Bayou Gardens final plat for recording. Ayes 5, Nays 0. Rees Aye, Pridgen Aye, Jones Aye, Cuchens Aye, Pauls Aye.

Mr. Tim Durbin, Planning Technician II, presented the Planning Staff’s, along with the Planning Commission’s, recommendation of approval for Evergreen Landscaping. The development proposes a 2,484 square-foot office for a landscaping business on approximately 2.05 acres designated Village Mixed Use. **(Evergreen Landscaping Exhibit #1-P.C./Staff Report)**

Mr. Jim Fuller, President of Bayside Consulting Inc., spoke on behalf Mr. Chris Kelleher, owner of Evergreen Landscaping Inc. Mr. Fuller submitted a letter containing Mr. Sammy Sanchez's comments in regards to fire/life safety concerns after review of Evergreen Landscaping. Further discussion was held regarding the installation of a sprinkler system within the office building. According to the Land Development Code, a sprinkler system is not required. **(Evergreen Landscaping Exhibit #2-Letter)**

Motion by Commissioner Pauls, second by Commissioner Cuchens, to approve the development proposal of Evergreen Landscaping contingent upon the following condition: that when water is available, the installation of a fire hydrant will be required. Ayes 5, Nays 0. Rees Aye, Pridgen Aye, Jones Aye, Cuchens Aye, Pauls Aye.

Mr. Durbin presented the development proposal of Baywalk Commerce Park. Baywalk Landing Company is proposing two single-story 8,000 sq. ft. commercial buildings, one single-story 5,000 sq. ft. commercial building and a three lot commercial subdivision in conjunction with the commercial buildings on 2.40 acres with a land use designation of Coastal Center. Planning Staff and Commission recommended approval. **(Baywalk Commerce Park Exhibit #1-P.C./Staff Report)**

Mr. Russ Aldrich, Emerald Coast Associates, Inc., read a letter that was written by Mr. Steven R. Schmidt, Projects Manager. The letter clarified the changes needed to satisfy the surrounding property owners. The changes included lighting that does not intrude upon the residential neighborhood, a minimum of a five-foot "wrap" around the front sides of any building constructed on the project with a stucco, dryvit or similar finish, and an increase in the landscape buffer. **(Baywalk Commerce Park Exhibit #2-letter)**

Mr. Dan Scupin spoke about the importance of having a “screening” of trees in between the Baywalk Commerce Park and the homeowners’ property. Mr. Aldrich stated that a conservation easement has been placed over the wetlands in that area. Mr. Aldrich agreed that if a permit could be obtained then the developer would plant trees in that area.

Ms. Margaret Crozier expressed concern with the location of the loading doors on the north side of the building. Mr. Aldrich stated that the doors would be located on the south side of the building.

Motion by Commissioner Pauls, second by Commissioner Rees, to approve the proposed development of Baywalk Commerce Park contingent upon the conditions that have been agreed to by the developer. Ayes 5, Nays 0. Rees Aye, Pridgen Aye, Jones Aye, Cuchens Aye, Pauls Aye.

Ms. Renee Bradley, Planning Technician, presented the Planning staff’s recommendation for approval of a major development identified as “Huy Villa”. Ashwood Development Company, Cole Forsth, proposes to construct a four unit multi-family project on .53 acres designated Neighborhood Planning Area/Infill. **(Huy Villa Exhibit #1-P.C./Staff Report)**

Ms. Bradley submitted a letter by Mr. Lee Shook voicing opposition to the request by Ashwood Development Company.

Mr. Dean Burgis, Emerald Coast Associates, stated that they concur with the Planning Staff’s recommendation for approval.

Mr. Rick Peterman appeared before the Board representing Ashwood Development Company. Mr. Peterman requested permission from the Board to have a stenographer present for public testimonies.

Mr. Arthur Ruraff submitted a deed and the legal description of his property, an adjacent lot west of the proposed project. Mr. Ruraff spoke in opposition to the Huy Villa project, because of a common property boundary that has been disputed by the developer and has been taken to court. Mr. Ruraff also voiced concern about drainage problems he expects as a result of heavy rains.

Mr. Aldrich stated that the project was designed within the non-disputable property. Mr. Aldrich stated that the project was designed to meet all county standards and that drainage would not be a problem. Mr. Aldrich stated that if a building permit were obtained before the dispute is resolved then a physical boundary line would be established.

Motion by Commissioner Rees, second by Commissioner Pridgen, to approve the proposed development of Huy Villa based on the conditions that Mr. Aldrich has agreed upon. Ayes 5, Nays 0. Rees Aye, Pridgen Aye, Jones Aye, Cuchens Aye, Pauls Aye.

Mr. Durban presented the development proposal of Treetop Planned Unit Development. Treetop Joint Venture proposes a planned unit development including 247 units, a maximum of 86,000 sq. ft. of commercial on 71 acres with a land use designation of NPA/Traditional Neighborhood Development Area. Planning Staff and Planning Commission recommended approval. **(Treetop PUD Exhibit #1-P.C./Staff Report)**

Mr. Steve Hall, Hall & Reynolds, appeared before the Board representing Treetop Joint Venture. Mr. Hall requested the Board's approval to proceed with the first phase of the proposed project. There were no public comments.

Motion by Commissioner Rees, second by Commissioner Cuchens, to approve Treetop PUD. Ayes 5, Nays 0. Rees Aye, Pridgen Aye, Jones Aye, Cuchens Aye, Pauls Aye.

Mr. Durbin presented the Arnold Restaurant proposed project. Mr. Gene E. Arnold Jr. proposes to construct a 5,228 sq.-ft. restaurant, two-story, located on approximately .82 acres designated Village Mixed Use. The Planning Staff and Planning Commission recommended approval by the Board. (**Arnold Restaurant Exhibit #1-P.C/Staff Report**)

Attorney Dana Matthews appeared before the Board representing Mr. Gene Arnold Jr. Mr. Matthews submitted various documents, including the comprehensive plan and his client's deed. (**Arnold Restaurant Exhibit #2-Variou Documents**) Mr. Matthews addressed several concerns of neighbors that were voice at the previous Land Use Hearing.

Mr. Mathew Savoie, Architect, appeared before the Board and was sworn in. He presented a map that illustrated the exterior lighting.

Mr. John Harrison stated that the map that Mr. Savoie presented was inaccurate and that his homes were not illustrated on the map.

Discussion was held regarding a previous motion that was made by Commissioner Rees at the last Land Use Hearing. The motion was to continue the discussion of the Arnold Restaurant until June 3, 2003 pending further review of the lighting and noise issues by the developer and neighbors. Mr. Richard Fowlkes, Blue Mountain Beach Community Association, stated that he has spoke with Mr. Savoie. He stated that he had intended to meet with Mr. Charles Beckman, President of the Pines of

Blue Mt. Beach Homeowners Association, to discuss their concerns, but was unable to meet because of conflicting schedules.

Mr. Beckman stated that the Homeowners Association never met with the developer to discuss their concerns.

Mr. Ted Cromer approached the Board and was sworn in. Mr. Cromer questioned the intentions for the exterior lighting on the west side of the building. Mr. Savoie explained the proposed lighting plan.

Attorney Matthews entered the proposed site plans for the lighting in the parking lot and the roof- top dining area into the record. (**Arnold Restaurant Exhibits #3 & #4- Proposed Site Plans**)

Mr. Fowlkes read and submitted a letter written by the Blue Mountain Beach Community Association. The letter explained why they are opposed to the development of Arnold Restaurant.

Mr. Beckman addressed the Board and was sworn in. He voiced concerns regarding traffic issues at the site location for the Arnold Restaurant. Mr. Beckman spoke in opposition to the project.

Mr. Harrison expressed concern about the possibility of contamination to well water in the area. He also voiced concerns regarding vehicle lighting shining into the surrounding homes and noise that would be generated by slamming car doors. He stated that he is also concerned with traffic matters at the site location. Mr. Ong-In Shin, Engineer, addressed the Board and was sworn in. Mr. Shin addressed the issues of percolation and contamination. Mr. Shin stated that the project has gone through DEP and has met all of the guidelines.

Mrs. Freida Cromer addressed the Board and was sworn in. She presented photographs of her neighborhood to show where the restaurant will be located in their subdivision. Mrs. Cromer stated that she is concerned with noise generated from garbage pick-up. She also voiced concerns regarding animals intruding the area because of food from the restaurant.

Mr. Cromer stated that he is opposed to the project at this location and asked for denial.

Mr. Bill Higgins read for the record a letter from the South Walton Community Council opposing the proposed development of Arnold Restaurant.

Mr. Lane addressed the issue of commercial development on interior residential streets. He stated that the area is designated as Village Mixed Use, which allows for commercial development to occur. He also stated that the project meets all requirements of Walton County.

Mr. Scott Jenkins, County Engineer, addressed the concerns of the location site of the restaurant. He stated that the restaurant is in a fairly good location.

Mrs. Laura Abbey spoke in opposition to the project. Mr. Fowlkes voiced concern regarding noise. Discussion followed regarding the property's classification of Village Mixed Use. Mr. Fowlkes stated that the Blue Mountain Beach Community Association's major concern is the rooftop dining.

Mr. Charles Wilson Sr. voiced concerns regarding safety issues. He stated that he was concerned with delivery trucks and parking lots.

Attorney Matthews questioned Mr. Shin about his meeting with Mrs. Latilda Henninger, Planning Director. Mr. Matthews questioned Mr. Arnold concerning his

purchase of the land. Mr. Shin stated that outdoor entertainment was not discussed during his meeting with Mrs. Henninger.

Mrs. Cromer spoke in opposition to the proposed development. Mrs. Linda Ayers stated that the restaurant would affect their quality of life and decrease the value of their homes.

Attorney Matthews stated that the property was designated VMU and that restaurants are permitted. He requested that the Board approve the development. Further discussion was held regarding outdoor entertainment.

The Board questioned if the client is willing to provide a fence around the north portion of the parking lot and possibly omit the outdoor entertainment. Mr. Matthews stated that Mr. Arnold would comply with the noise ordinance. Further discussion was held regarding additional fencing.

Ms. Christy Haynes expressed concern regarding the roof top dining.

Commissioner Rees also expressed concern regarding the outdoor entertainment in a residential neighborhood. Commissioner Pauls stated that the code does not address residential concerns, but the Board must abide by the code. He stated that in order to address these concerns, the code must be changed. Chairman Jones agreed with Commissioner Pauls. Further discussion was held in regards to defining "limited" outdoor entertainment in the code.

Commissioner Cuchens questioned the residents of Blue Pine subdivision if they were aware that the property was zoned as Commercial use when they purchased their homes. No one stated that they were aware of the land designation when they purchased their homes.

Motion by Commissioner Cuchens, second by Commissioner Rees, to approve the proposed development of Arnold Restaurant with the following conditions: 1.) No roof top dining and 2.) No outdoor music. Ayes 4, Nayes 1. Rees Aye, Pridgen Aye, Jones Aye, Cuchens Aye, Pauls Naye.

The Commissioners recessed briefly.

Mrs. Linda Clark, Planning Department, introduced Mr. Charles Gauthier and Mr. Jeff Beilling and thanked them both for attending the meeting. Mrs. Clark presented the Tops'1 Development of Regional Impact (DRI) Notice of Proposed Change (NOPC). The Tops'1 Group, a Florida Corporation, by Edward H. Seymore, Jr., President, is requesting an extension in the build out date to December 29, 2006 for the Tops'1 DRI. The site is located on 52 acres designated Coastal Center. **(Tops'1 DRI NOPC Exhibit #1- P.C./Staff Report)**

Mrs. Clark gave a brief history on the property. She stated that the outstanding traffic issues have been adequately addressed and the presumption of a substantial deviation has been rebutted. The previous Planning Staff's recommendation of "denial" should now reflect that their position has changed. Planning Staff and Commission both recommended approval. Mrs. Clark entered into the record the Tops'1 DRI developer's affidavit for notice of public signage posting. **(Tops'1 Exhibit #2-Walton County Posting of Property Affidavit)**

Attorney Jesse W. Rigby, of Clark, Pennington, Hart, Larry, Bond & Stackhouse, addressed the Board on behalf of Tops'1 Group Inc. Mr. Rigby reviewed the changes that were made to the development. He stated that the Board's approval of the requested

extension would permit the developer to proceed with the final stages of development at a pace that is most appropriate considering market forces and the needs of the community.

Mr. Vorbeck swore in everyone in the audience who desired to speak on the matter.

Mr. Edward H. Seymore, Jr., President of the Tops'l Group, Inc. and President of Abbot Reality Services, addressed the Board. He stated that they are only asking for an extension of time.

Mr. Park Brady, Resort Quest, commended Walton County and the Economic Development Council for the opportunity to locate their headquarters in the county. Mr. Brady asked for the Board's support of the request made by Tops'l.

Mr. Rigby submitted documents relating to the Tops'l Group, Inc. (**Tops'l Exhibit #3-Composite Exhibit A-E**) Mr. Rigby reviewed the confirmation letter written by Mr. John Doyen, District Manager, Waste Management, which stated that solid waste disposal services would be available to support the remaining development at Tops'l. He also reviewed the statement of availability of water service from South Walton Utility Company Inc., and the statement of sewer availability from Regional Utility. The following documents were also included in the composite that was submitted by Mr. Rigby: 1.) A handwritten response by Mr. Robert Collins providing the number of shelter spaces required for the additional development at Tops'l 2.) Memorandum dated May 28 from the Manager of the Walton County Emergency Operations Center concerning hurricane evacuation and shelter space and 3.) A Hurricane Evacuation Traffic Impact Assessment prepared by HSA Consulting.

Ms. Gay Hamilton Smith, HSA Consulting Group, Inc., addressed the Board and gave an overview of her educational background. Ms. Smith submitted and read into the record a Tops'1 traffic impact analysis. **(Tops'1 Exhibit #4-Traffic Impact Analysis)**

Ms. Smith stated that, at the client's request, HSA built into the analysis a number of conservative factors to assure the traffic impact of the proposed development was properly stated. As a result, there is an over-statement of the number of trips impacting the Walton County roadways. She stated that the traffic analysis assumes an 80/20% split in traffic at Tops'1, with 80% of project trips going to and from the west, but the actual traffic count conducted shows only 76% of development trips going to and from the west. Ms. Smith also reviewed the hurricane evacuation traffic impact assessment.

Attorney Rigby questioned Ms. Smith concerning the traffic analysis. Ms. Smith stated that Department of Transportation concurs with the analysis.

Mr. Jeff McInnis questioned the difference of the impact of trips on the roadway segments of Old 98 to east of CR 187 and from east of CR 187 to CR 457. Ms. Smith explained that they were two separate roadway segments. Mr. McInnis questioned the selected time frame of the HSA traffic analysis. Ms. Smith stated that the February 2003 time frame came within the review period and also was declared a high month of occupancy at the Tops'1 Resort. Ms. Smith stated that the June occupancy percentage is slightly lower than the February percentage, so the Tops'1 trips occurring in the 100th highest hour could reasonably be expected to be fewer than the 164 trips counted in the February turning movement count. However, in order to be conservative, no adjustment to the February trips was made to reflect the lower Tops'1 occupancy in June.

Mr. Lex Granger, President of Tops'1 Homeowners Association, voiced disagreement regarding the traffic analysis performed by HSA. Mr. Granger stated that, in his opinion, the information is inaccurate and should be questioned. He presented information based on his estimated assumptions of occupancy of Tops'1 Beach and Racquet Club during the month of February verses June.

Mr. Joe Poole submitted a traffic analysis review from Genesis Group of Tallahassee, Florida. Mr. Poole voiced disagreement with the traffic analysis performed by HSA. He expressed concern in relation to the determination of the peak season. Mr. Rigby questioned Mr. Poole regarding the traffic analysis review.

Mr. Jerry Simmons, President of Tops'1 Tennis Villas Homeowner's Association, spoke in opposition to the Tops'1 Development of Regional Impact. Mr. Simmons stated that during a phone conversation with Richard Barr, the consultant for Kimley-Horn Association, Inc., Mr. Barr stated that the occupancy figures were "confusing" in that the figures were provided by Tops'1 on behalf of its principal owner, and Resort Quest subsidiary, Abbott Realty.

Ms. LeAnn Hagedorn voiced concern regarding the hurricane evacuation.

Attorney Amy Perry, Pleat and Associates, addressed the Board representing the Summit at Tops'1 Owner's Association. Ms. Perry stated that the proposed extension of the build out date for the Tops'1 DRI constitutes a substantial deviation. Ms. Perry also suggested that Tops'1 Group be asked to conduct a traffic analysis based on the month of June or July.

Attorney Michael Donaldson, on behalf of Tides of Tops'1 and Tops'1 Tennis Villas Homeowner's Association, requested that the Board not reconsider the Tops'1 DRI

Notice of Proposed Change. If the Board decides to reconsider, Attorney Donaldson asked that they decide that the substantial deviation has not been rebutted by clear and convincing evidence.

Commissioner Pauls questioned if the Department of Community Affairs' opinion would change if the time of the traffic analysis were also changed. Mr. Charles Gauthier, AICP, Chief of Comprehensive Planning, DCA, stated that it's not uncommon to have different traffic analysis. Mr. Gauthier stated that DCA has waived their right to appeal, based upon the fact that DOT viewed the HSA traffic analysis as a good representation of trip generation.

Attorney Rigby questioned Ms. Smith regarding the traffic analysis.

Motion by Commissioner Pauls, second by Commissioner Rees, to recommend approval of the application to extend the build out date for the Tops'1 DRI and declare that it is not a substantial deviation. Also, instruct the Planning Staff to develop a final order to be presented. Ayes 5, Naves 0. Rees Aye, Pridgen Aye, Jones Aye, Cuchens Aye, Pauls Aye.

There being no further business, the meeting was adjourned at 10:35 p.m.

APPROVED: _____

Larry D. Jones, Chairman

ATTEST: _____

Martha Ingle, Clerk of Court