

AUGUST 03, 2004- LAND USE HEARING

The Board of County Commissioners, Walton County, Florida, held a Land Use Hearing on Tuesday, August 03, 2004 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. Ronnie Bell, Interim County Administrator, and Attorney Gary Vorbeck, Legal Services Director, were also present.

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

Mr. Mike Lane announced that agenda items #2 and #5 had been removed from the agenda.

Mr. Lane presented the proposed Watson Petition for Abandonment. Linda Watson Realty, as agent for property owner, proposed to abandon the 33-foot right-of-way along the western boundary of Lot 72, Township 3 South, Range 20 West, Section 2, as recorded in Deed Book 134, pages 196 and 197 of the Public Records of Walton County, and is a patent from the US of America to Narvin E. Grams. This site is located on the west side of Spooky Lane, south of CR 30-A. The Planning Commission recommended approval. When the project was initially brought before the Board Planning staff's original recommendation was for denial. Since that time, a meeting was held with the petitioners and their agent and representatives of the Planning Department, Mike Lane, Jennifer Christensen and Jim Harman, to discuss the limits of the abandonment. The Watson's agreed to deed to Walton County the most western eight

feet of their lot. The deeding of this section is to ensure the beach access will remain for the use of the public. The boardwalk is now approximately four feet wide. The eight feet will ensure there will be sufficient area to, in the future, reconstruct the access to current standards and allow maintenance. The remaining easement would be abandoned. The Watson's will be required to provide any and all documentation necessary for the deeding process. As a result of this agreement, the Planning staff recommended approval of this abandonment with the condition that a title opinion be prepared on the eight feet that remain. Mr. Lane submitted into the record a packet of various documents regarding the project.

Attorney Robert McGill, representing the applicant, asked Mr. Lane to state for the record that the lot was a buildable lot and a lot of record. Mr. Lane stated that it was a lot of record.

Mr. McGill gave a brief history of how his applicant acquired ownership of the property. He entered into the record a letter written by Jim Harman recommending approval of the request. Mr. McGill also handed out a sketch of description which illustrated the area to be deeded to Walton County and the portion of the easement to be vacated to Linda Watson Realty, Inc. Mr. McGill spoke about the meeting that had been held with the representatives of the Planning Department and about the agreements that had been made. He also spoke about how they felt the abandonment of the property would benefit the public.

Discussion was held regarding a change that was made to the land development code since the applicant obtained ownership of the property and Judge Green's determination in 2001 that there were wetlands on the property.

Attorney Brian Hest addressed the Board representing adjacent property owners who were in opposition to the proposed abandonment. He submitted to the Board and into the record a notebook containing numerous documents regarding the property. Mr. Hest reviewed several of the documents which he felt supported his clients' opposition to the request.

Mr. Charles Wagner, adjacent property owner, addressed the Board to speak in opposition to the proposed project. He spoke about the decision made by Judge Green regarding the property in 2001. Further discussion was held regarding the issue. Commissioner Pauls asked Mr. Lane if the proposed lot was a buildable lot. Mr. Lane said that it was and explained the basis in which he based his decision.

Attorney McGill questioned Mr. Wagner.

Attorney Hest entered into the record a topographical map illustrating the wetlands.

Commissioner Rees stated that he was opposed to abandoning the easement. He felt that the public had the right to the easement for utility purposes. Commissioner Cuchens asked Mr. Lane if he recommended approval contingent upon the conditions recommended by staff. Mr. Lane responded that he did. Commissioner Pauls spoke about the public benefits that would be derived from the abandonment.

Motion by Commissioner Cuchens, second by Pauls, to approve by resolution the proposed Watson petition for abandonment with the conditions recommended by staff (2004-51). Attorney Vorbeck noted that necessary documentation, including a new survey and title, would be needed for the deeding process. Ayes 3, Nays 2. Jones Naye, Rees Naye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

The Board recessed briefly.

Mr. Blackshear presented the proposed Montabana Small Scale Amendment. A. Mike Frank and Mary Montabana proposed a change to the Future Land Use Map on a 9 acre parcel from Conservation Residential 2:1 to Village Mixed Use Center. This site is located on the east side of Sugar Drive, south of US 98. Mr. Blackshear gave a brief history of the proposed abandonment and reviewed the information contained in the planning report. The Planning Commission recommended approval. Planning staff recommended denial based upon the wet, isolated nature of the subject parcel does not lend itself to fulfilling the intent of the VMUC land use category. Discussion was held regarding the recommendations made by the Planning Commission and Planning Department.

Attorney Lisa Minchew, representing the applicant, addressed the Board and gave an overview of the history of the request. Ms. Minchew discussed the recommendations made by the Planning Commission and the Planning Department and addressed the staff analysis. She said that previously staff recommended denial of the request due to the parcel being connected to a larger piece of VMU that exceeded the maximum forty acres. She said when the issue was corrected; staff came up with six more reasons to deny the request. She felt that there was no justified reason to deny the project. Attorney Minchew also spoke about the need for a commercial land use category. She requested that the Board approve the proposal.

Ms. Minchew asked Mr. Jack Dorman, J.E. Dorman & Associates, Inc., if he felt that the proposal was consistent with the Walton County Comp Plan. He stated that he

did feel that it was consistent. Mr. Dorman spoke about the surrounding properties and their category uses.

The Board questioned Mr. Lane's opinion regarding the request. Mr. Lane spoke about "spot zoning." He said that he was concerned because the parcel would be isolated.

There were no public comments.

Commissioner Pauls stated that he felt like the only logical category that the subject parcel would be submitted into is VMU. He agreed that an additional land use category was needed.

Motion by Commissioner Pauls, second by Commissioner Pridgen, to approve by ordinance the proposed Montabana Small Scale Amendment (2004-29). Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Chairman Jones called to order the Quasi-Judicial Hearings and Attorney Vorbeck administered the oath to those individuals who would be speaking on the following projects: Alys Beach Phase 1A Plat, Brandon Oaks 2nd Addition, Inlet Isle, Plantation at Santa Rosa, Abacos, Church Street Landing, and Paradise Point Townhomes.

Mrs. Christensen presented the Alys Beach Phase 1A final plat for approval. The proposed project consists of an 82-lot single family residential subdivision. Staff recommended approval. There were no public comments.

Motion by Commissioner Rees, second by Commissioner Pauls, to approve the Alys Beach Phase 1A final plat for recording. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Ms. Renee Bradley, Project Manager, presented a request for approval of a major development identified as “Brandon Oaks 2nd Addition.” R & B Construction proposed 94 single-family residential lots on +/- 75 acres with a land use designation of Rural Village. This site is located on Bay Grove Road, approximately 0.1 miles from Hwy. 331 S. The Planning Commission recommended approval subject to the following conditions:

- (a) Roadways within this development must remain private.
- (b) The applicant shall install a northbound left turn lane at the intersection of US 331 and Bay Grove Road.
- (c) The developer shall require the lot purchasers to install an aerobic septic system and the developer shall install a “dry system” sewer.
- (d) Homeowners will be connected to public sewer within one year of availability.
- (e) Applicant must submit to the Department of Planning a Master Plan, which shall include utility, traffic and drainage for the entire 300 acres under contract or option.
- (f) The developer must provide right and left exit lane off of Bay Grove Road onto US 331.

The planning report was entered into the record as an exhibit (**Exhibit #1**). Ms. Bradley also entered into the record a copy of a letter addressed to Russ Aldrich and Dean Burgess (**Exhibit #2-Copy of Letter**). The letter listed several issues that had arisen in reference to the Brandon Oaks 2nd Addition project. Ms. Bradley reviewed the issues listed in the letter. Due to the outstanding issues on the project, staff suggested that the

project be removed from the agenda because although many of the issues could be addressed immediately, others could not. Discussion was held regarding the issues.

Commissioner Rees asked Ms. Bradley if her recommendation was for approval or denial. Ms. Bradley stated that the applicant's environmentalist specialist was present and if he could convince the Board about the wetlands determination, she would recommend approval.

Mr. Russ Aldrich, Emerald Coast Associates, addressed the Board representing the developer. Mr. Aldrich expressed concern regarding the following recommendations made by staff:

- It has been brought to the staff's attention that somewhere on the 300 +/- acres a landfill existed on this property in the 1070's and 80's. If this is true, a study needs to show when this property was cleaned and by what means. What types of materials were stored on the property? Basically an assurance that no hazardous waste could remain and proper measures have been taken to assure this.
- Wetland determination
 - Per Terry Smith, NRCS, the determination given in 1996 is no longer valid, per 510.46 US Army Corps of Engineers (COE) Responsibilities "Determines, on an as needed basis, whether NRCS certified wetland determinations/delineations that are over 5 years old continue to be acceptable for CWA purposes."
- Per Mr. Smith, this determination was meant for farming purposes only, not development and a new determination is warranted.
- Wetland determination
 - Department of Environmental Services determination has expired.
- This determination/jurisdiction was only valid for 5 years. A new determination is warranted from this agency as well.

Mr. Aldrich felt that these recommendations may have been based on opinions rather than on expertise. Mr. Aldrich entered into the record a copy of the minutes from the meeting that had been held with the community per the Board's request (**Exhibit #3-Minutes Tuesday, July 20th, 2004**). He spoke about the issues that were raised and discussed at the community meeting.

Ms. Aimee Titus, adjacent property owner, addressed the Board to speak about drainage problems on her property. She submitted a drawing and some photographs into the record illustrating the drainage problem (**Exhibit #4A-Map & Exhibit #4B-Photographs**). She said that drainage was not an issue before this development. Mr. Aldrich assured the Board that the issue was being addressed and would be fixed as soon as possible.

Commissioner Cuchens asked about the master plan. Mr. Aldrich said that they brought the master plan to the community meeting but did not have it with them at this meeting because they were not required to.

Mr. Aldrich spoke about sewer and availability. He also spoke about drainage issues. He requested a two week extension to address these types of issues.

Attorney Ken Goldberg, representing surrounding property owners, spoke about concerns that the property owners had and options to addressing those concerns.

Commissioner Cuchens asked that if the item is continued that a Phase I environmental study be done. Mr. Aldrich stated they agreed to do the study.

Commissioner Pauls questioned the landfill issue. The floor was opened to public comments regarding the issue. The following citizens spoke on the issue: Mr. Larry Campbell, previous property owner, addressed the Board and said that he did not know of

a landfill existing on the property. He felt that the landfill issue was not a valid reason to delay the project. Mrs. Lisa Waldrop addressed the Board and presented information to support her belief that a landfill previously existed on the property. Commissioner Pauls suggested that the information be presented to the Planning Department.

Mr. Dean Burgess asked if the Phase I study should be done on the project that was before the Board or on the entire project that will be included in the master plan. Commissioner Cuchens stated that it should be done on the entire project.

Motion by Commissioner Cuchens, second by Commissioner Pridgen, to continue the proposed project until September 7, 2004. The applicant must prepare a Phase I study on the entire project along with address all issues listed by staff.

Ms. Peggy Prater addressed the Board and spoke about the wetlands issue.

A vote was called for the motion on the floor. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

The Board recessed briefly.

Mr. Lane presented a request for approval of a major development identified as "Inlet Isle." Bo Lee and McNeil Engineering proposed to develop a 9-lot duplex residential subdivision to consist of a total of 18 units on 2.46 +/- acres with a land use designation of NPA/Infill. This site is located at the southeast corner of East Park Place Avenue and South Walton Lakeshore Drive. The Planning Commission recommended approval subject to the developer adopting covenants and restrictions regarding the development and maintenance of stormwater management system, the maintenance of roadways and the natural vegetation preservation. Planning staff's recommendation was for approval with the condition that no development order be given until a system of

covenants and restrictions has been provided to, and approved by, County staff (**Exhibit #1-Planning Report**).

Mr. Robert Carroll, on behalf of the developer, addressed the Board. He stated that they concurred with the conditions suggested by the Planning Commission. He said that the covenants and restrictions had been submitted to staff. Mr. Hammons stated that he had reviewed the covenants and restrictions and that they were satisfactory.

There were no public comments.

Motion by Commissioner Rees, second by Commissioner Pauls, to approve the application for Inlet Isle.

Commissioner Pauls pointed out to the applicant that they were in the white sand zone. Mr. Carroll stated that they were aware of that.

A vote was called for the motion on the floor. Ayes 4, Nays 0. Jones Aye, Rees Aye, Pauls Aye, and Pridgen Aye.

Mr. Hammons presented a request for approval of a major development identified as "Plantation at Santa Rosa." Santa Rosa Plantation LLC proposed to develop 74 single family homes on 10.07 acres with a land use designation of NPA/Infill. This site is located on the east side of Don Bishop Rd, approximately 580 feet north of US 98. The Planning Commission and Planning staff recommended approval (**Exhibit #1-Planning Report**).

Mr. Dean Burgess, Emerald Coast Associates, addressed the Board representing the developer.

There were no public comments.

Motion by Commissioner Pauls, second by Commissioner Rees, to approve the application for Plantation at Santa Rosa. Ayes 4, Nays 0. Jones Aye, Rees Aye, Pauls Aye, and Pridgen Aye.

Mr. Hammons presented a request for approval of a major development identified as "Abacos." Arcadia Coastal Properties, LLC proposed to develop 13 multi-family units on 6,037 square feet of commercial on 1.14 acres with a land use designation of Village Mixed Use. This site is located on the north side of 30-A, approximately 300 feet east of 393. The Planning Commission and Planning staff recommended approval (**Exhibit #1-Planning Report**).

Commissioner Rees asked who would be responsible for maintaining the easement. Mr. Hammons stated that it is a county maintained easement.

Mr. Dean Burgess, representing the developer, addressed the Board to answer any questions.

Ms. Phyllis Wings, Sunrise Beach property owner, addressed the Board to speak on the behalf of other property owners. She stated that they were in opposition to the proposed project as it was currently being presented. She expressed concerns about notification, traffic and parking issues. She requested that the project be continued to allow time for the community to meet with the developer to address their concerns. Mr. Burgess addressed the notification concern expressed by Ms. Wings. He said that notification had been sent to all property owners within 400 feet of the subject property. Mr. Burgess also addressed the traffic concurrency and parking issues.

Mr. Charles Horton addressed the Board and questioned the parking and building height requirements. Mr. Burgess addressed the parking concern. He and Mr. Aldrich assured the Board that the building would not exceed the 50 ft. height limit.

Ms. Wings expressed additional concerns regarding the traffic and proposed parking. The Board assured Ms. Wings that Mr. Aldrich or Mr. Burgess would answer any questions that she had. Mr. Hammons explained the parking requirements and stated that the proposed project complied with the LDC. Mr. Aldrich stated that they would be happy to meet with Ms. Wings to address her concerns, but they did meet the LDC. Commissioner Pauls spoke about the need to review the LDC as it relates to parking requirements.

Motion by Commissioner Pauls, second by Commissioner Cuchens, to approve the application for Abacos. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mr. Hammons presented a request for approval of a major development identified as “Church Street Landing”. Volcano Development, Eddie O’Brien proposed to develop a 24 lot single-family subdivision on 10.36 acres with a land use designation of NPA/Infill. This site is located on the west side of Church Street, approximately .35 miles north of US 98. The Planning Commission and Planning staff recommended approval (**Exhibit #1-Planning Report**).

Mr. Dean Burgess, representing the developer, addressed the Board to answer any questions. There were no public comments.

Motion by Commissioner Pridgen, second by Commissioner Pauls, to approve the application for Church Street Landing. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mr. Hammons presented a request for approval of a major development identified as "Paradise Point Townhomes." Centurion Development proposed to develop 86 townhouse units on 23.13 acres designated NPA/Infill and Conservation Residential 1:2.5. This site is located on the east side of CR 393, approximately 1.6 miles north of US 98. The Planning Commission and Planning staff recommended approval (**Exhibit #1-Planning Report**).

Mr. Dean Burgess, Emerald Coast Associates, addressed the Board representing the developer. Commissioner Pauls asked if there was any seawall in the bay front portion of the project. Mr. Burgess said that a seawall was intended to be there, but it was not required.

Mr. Alan Ficarra, adjacent property owner, approached the Board to speak in opposition to the proposed project. He reviewed and entered into the record policies of the LDC regarding limitations of disturbance to the natural topography (**Exhibit #2**). Mr. Ficarra felt that the development did not comply with the policies.

Mr. Hammons addressed the Board and explained the basis which staff had recommended approval of the proposed project. Further discussion was held. Mr. Ficarra felt that there were sufficient valid reasons for the Board to deny the project.

Commissioner Cuchens asked if all the houses would be built on slabs. Mr. Aldrich responded that they would be. Mr. Aldrich also addressed the issues raised by Mr. Ficarra.

Motion by Commissioner Cuchens, second by Commissioner Pridgen, to approve the application for the Paradise Pointe Townhomes. Ayes 3, Nays 2. Jones Aye, Rees Naye, Pauls Naye, Cuchens Aye, and Pridgen Aye.

Mrs. Christensen presented a request for a waiver of a variance application fee from Joan Reeves. Mrs. Reeves and her husband were cited by Code Enforcement for construction of a home without proper permits. They had submitted an application to the Building Department and the permit was rejected due to the structure not meeting the rear setback requirements. Mrs. Christensen said that if a variance is granted, a building permit could be issued, but if a permit could not be obtained, the structure would have to be relocated or torn down.

Motion by Commissioner Cuchens, second by Commissioner Pridgen, to approve the Joan Reeves Petition for variance fee waiver. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mrs. Christensen presented a recreation dedication from the developer of Cottages @ Inlet Beach.

Motion by Commissioner Rees, second by Commissioner Pauls, to accept the Cottages @ Inlet Beach Recreation Dedication. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Commissioner Pauls recused himself from any discussion concerning the next item on the agenda, TopSail Village Recreation Dedication.

Mrs. Christensen presented and briefly explained the proposed trail easement. Mr. Tim Pauls stated that what they desired to do was to grant the easement to Walton County for public use. He explained that because of the surface of the trail, bicycling

would not be an acceptable use on the trail. Mr. Lane recommended that if the Board approved the trail easement that they strongly encourage that a bicycle rack be provided for the public to store their bicycles. Mr. Pauls stated that he was not opposed to providing a bicycle rack.

Motion by Commissioner Rees, second by Commissioner Pridgen, to approve the Topsail Village recreation dedication with the provision that a bicycle rack will be provided. Ayes 4, Nays 0. Jones Aye, Rees Aye, Cuchens Aye, and Pridgen Aye.

There being no further business, the meeting adjourned at 8:30 p.m.

APPROVED: _____
Larry D. Jones, Chairman

ATTEST: _____
Martha Ingle, Clerk of Court