

AUGUST 7, 2001- LAND USE HEARINGS

The Board of County Commissioners, Walton County, Florida, held a land use hearing on Tuesday, August 7, 2001 at 5:00 p.m. in the Tourist Development Council Boardroom to discuss planning related issues.

The following Board members were present: Commissioner Tim Pauls, Commissioner Larry D. Jones, Chairman Herman L. Walker, Vice-Chairman Lane Rees and Commissioner Gene Ryan. Mr. Michael Underwood, County Administrator, and Mr. Gary Vorbeck, Director of Legal Services, were also present.

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

Chairman Walker called the meeting to order and welcomed those present in addition to newly hired staff.

Mr. Russ Aldrich presented final plats for Stallworth Preserve 2, Seashore Village, Phase 5, and Crystal Lake at Sandestin, Phase III for approval. Attorney Vorbeck advised that he has reviewed the plats and found each of them in order.

Motion by Commissioner Pauls, second by Vice-Chairman Rees to approve Stallworth Preserve 2 final plat for recording. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Motion by Vice-Chairman Rees, second by Commissioner Pauls to approve Crystal Lake at Sandestin, Phase III final plat for recording. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Motion by Commissioner Ryan, second by Commissioner Pauls to approve Seashore Village Phase 5 final plat for recording. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Cliff Cohen presented Hideaway Cove final plat for approval. Mr. Vorbeck advised that the plat is in order.

Motion by Vice-Chairman Rees, second by Commissioner Ryan to approve Hideaway Cove final plat for recording. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Henry Devarona presented Magnolia Landing Phase 2 final plat for approval. Mr. Vorbeck advised that the plat is in order.

Motion by Commissioner Pauls, second by Commissioner Ryan to approve Magnolia Landing Phase 2 final plat for recording. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Chairman Walker called to order the Grayton Corners issue to consider a final order or the proposed settlement agreement between the individuals involved. Chairman Walker advised the Board that Attorney David Theriaque has presented a proposed compromise on behalf of his client. Attorney Vorbeck has reviewed the information.

Attorney Miller advised that he has met with the parties on both sides and they have attempted to work out a compromise.

David Theriaque, Esquire, representing Mr. Jay Odom, appeared before the Board and stated that he submitted a proposed compromise, which detailed significant changes to the project. He stated that they are no longer treating the second lot as a corner lot and has applied the 65% rule to the revision. They also moved the parking out of the 55'

buffer. Parking remains at 1/350. He advised that the opposing party has not agreed to the proposed compromise.

Mr. Billy Buzzett, opposing party, stated that he met to discuss the proposed compromise offering comments of what would be acceptable, which was not agreed upon. Mr. Buzzett stated that he is ready to settle this issue and stated that he would like to see the Land Development Code (LDC) be cleaned up to provide better language. He brought with him some revised language to the LDC for the commissioners review. The Board directed him to present the recommendations to the Planning Commission and Planning staff for review. He presented the following three areas of concern: 65% Rule, definition of shopping center and the issue of placing commercial on residential property.

Commissioner Pauls stated that amending the LDC is a separate issue and this project needs to be handled first. Attorney Theriaque stated that they are utilizing the 1/350 parking requirements as historically used with other businesses. Mr. Buzzett stated that he would prefer to allow the original plan due to the size of the building in the proposed compromise. Chairman Walker stated that a decision needs to be made based on the requirements of the LDC.

Attorney Miller felt that if the revised plan is going to be considered then the issue should be sent back to the Planning Commission and another public hearing should be held, unless both parties agree with it. He stated that the original plan can be approved with minor modifications based on discussion from the first public hearing that was held.

Commissioner Ryan stated that he felt that an effort was made to make necessary modifications and therefore motioned to approve the project as previously submitted

during the quasi-judicial hearing with the stipulation that no restaurant is constructed. The motion died for the lack of a second.

Commissioner Jones felt that the modified plans were fine. Attorney Miller stated that the modified plans were not approved by the opposing party and must therefore be sent back to the Planning Commission. Mr. Buzzett stated that the first plan was better, however, he feels that neither plan meets the requirements of the Code; the property is designated as residential preservation.

Attorney Theriaque stated that his client is willing to utilize either plan as they feel that they meet the requirements of the code. Commissioner Pauls suggested allowing additional time for the Planning staff to review the plans further. Attorney Miller advised the Board that they need to vote on the original plan to determine if it is in compliance or not.

Mrs. Latilda Henninger, Planning Director, stated that staff remains in support of the original plan. Mrs. Cindy Meadows stated that the Planning Commission recommended approval, however, they did have a split vote due to the issue of commercial being allowed on residential zoned property, which in her opinion requires a conditional land use permit.

Motion by Commissioner Ryan, second by Commissioner Jones to approve the original plan presented during the quasi-judicial hearing on July 3, 2001 with the stipulation that no restaurant be included. Ayes 3, Nays 2. Pauls Naye, Jones Aye, Walker Aye, Rees Naye, Ryan Aye.

The Commissioners recessed briefly.

Mr. Tom Blackshear, County Planner, appeared before the board to present the staff report regarding the Turner small-scale amendment continued from July 10, 2001 Land Use Meeting. Mr. Blackshear stated that he is concerned with spot zoning and further stated that the applicant has not demonstrated that conditions have changed, requiring an amendment. Staff also reported that a change might have an adverse impact on the natural environment. Staff recommended denial of the requested zoning change.

Commissioner Ryan stated that the dirt roads would suffer with additional development. He also voiced concern with spot zoning and therefore motioned to accept the recommendation of Planning staff to deny the Turner small-scale amendment request. Commissioner Jones seconded the motion. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Commissioner Ryan stated that there are three additional lots in the area that would be coming forward for a zoning change and therefore recommended addressing them all at the same time.

Vice-Chairman Rees advised the Board that Mr. Buzzett presented his proposed language change and he will forward it to the attorneys for their review.

Attorney George R. Miller presented the Order denying a request to amend TOPS'L Development Order. The Commissioners previously reviewed the document and approved.

Motion by Commissioner Pauls, second by Commissioner Ryan to authorize Chairman Walker's signature on the denial Order for the TOPS'L DRI. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Chairman Walker advised that because of the complexity of developments that the Planning/Land Use Hearings would be conducted in a quasi-judicial manner from this point forward.

Attorney Vorbeck gave an overview of the courts decision regarding due process. He stated that quasi-judicial proceedings must be held in a certain manner to allow for fairness. The Land Development Code specifies the details of a quasi-judicial hearing and which matters must be held as quasi-judicial such as small-scale, comprehensive plan land use amendments, development plan review, conditional use permitting. Mr. Vorbeck further explained the process and stated that evidence would be presented during a hearing for the Board to render a decision, based on substantial competent evidence. Upon a decision by the Board of County Commissioners, an appeal could then be filed with the courts. He explained that any individual desiring to speak would be sworn in. He advised the public against speaking to the commissioners regarding specifics of any one project outside of the hearing. A Commissioner must disclose at the hearing if they have been contacted and presented information regarding any case that will be held in a quasi-judicial manner. In the event discussion has occurred between a Commissioner and a constituent, other board members may object to that Commissioner's participation in the hearing. The Planning Board will also abide under this policy as mandated by the LDC.

Members of the audience voiced concern with being able to speak to their elected officials about matters that concern them. Mr. Vorbeck advised that they could speak to them about general issues, but not about specific projects.

Mr. Don Crim suggested the Board write a letter to the legislators regarding the unfair practices of citizens having to represent themselves and not being provided with legal counsel at quasi-judicial hearings.

The Planning staff will provide any and all information to the public upon request prior to a quasi-judicial hearing.

Attorney Vorbeck advised the commissioners that if either party is unprepared for the hearing then a continuation could be granted to allow time to prepare. The burden of proof is on the applicant.

Attorney Vorbeck stated that the remaining issues on the agenda would be held in a quasi-judicial manner and therefore administered the oath to all individuals who were to address the Board at this meeting.

Mr. Rusty Humberson, Digiph, appeared before the Board to request conceptual approval for two tower sites; Grayton Beach Oasis and Santa Rosa Golf Club. Mr. Humberson stated that the other two sites in question already meet the land use requirements. The towers proposed for these two locations are 150' and constructed to look like a flagpole.

Mrs. Henninger advised that this is considered a major development, which requires proper advertisement, signage to be posted, and property owners to be notified. She stated that Mr. Humberson is only seeking conceptual, not final approval.

Attorney Vorbeck stated that the procedures for this type of hearing would be changed. In the future, the developer will proceed with his advertising and notices to the public before appearing before the Board.

Motion by Commissioner Jones, second by Vice-Chairman Rees to grant conceptual approval to DIGIPH for the proposed tower sites at Grayton Beach and Santa Rosa Golf Club. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Chairman Walker called to order the public hearing to consider the Bishop small-scale amendment. Mr. Jerry Bishop, Ralph and Martha Anderson, John Atzberger and Josephine Landon are requesting the amendment to change their zoning from NPA/Residential Preservation to Village Mixed Use. The site is located on the west side of 30A approximately ¼ mile south of the west 98/30A intersection. The Planning Commission recommended approval.

Mr. Blackshear stated that the requested change is consistent with surrounding property and sewer and water is available.

Commissioner Ryan stated that all of the surrounding property needs to be taken into consideration to prevent spot zoning. He commented that the county should determine the best land use for the property. Mr. Blackshear advised that other property in this location is also being considered to determine its proper zoning classification.

The Commissioners directed staff, along with Mr. Arthur, to begin looking into the zoning of various properties.

Motion by Commissioner Jones, second by Vice-Chairman Rees to accept the recommendation of the Planning Commission and approve the Bishop small-scale amendment. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Discussion was held regarding the Planning Commission and Planning staff including additional information in their reports for better clarification. Mr. Vorbeck

suggested holding a workshop to discuss what details the Board wants included in the reports.

Ms. Cindy Meadows, Planning Commission, presented the Smith Development Company small-scale amendment. The amendment is requested for a parcel of 6.93 acres to be changed from Rural Residential to Commercial. The site is located on the west side of Highway 85, south of the Florida/Alabama state line. The Planning Commission recommended approval subject to adding a fifty-foot buffer and it not being obstructed and no commercial traffic through the buffer. Ms. Meadows stated that the applicant volunteered to install the buffer.

Mr. Jack Rhodes, representing Smith Development Company, stated that the proposed development is site specific and advised the commissioners that he only received one letter of concern from area residents (exhibit V-B-1; letter to Mrs. Jo Ann Chambers). There were no comments voiced from the public.

Motion by Commissioner Jones, second by Vice-Chairman Rees to accept the recommendation of the Planning Commission and approve Smith Development Company small-scale amendment with the stipulation that no commercial traffic is allowed through the buffered area. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Ms. Meadows presented the Planning Commission's recommendation to approve the Peterson small-scale amendment. Lula Cone Peterson is requesting a small-scale amendment on 6 acres to change the land use from NPA/Infill to Village Mixed Use. The site is located ½ mile southeast of west 30A/US 98 intersections. She explained that the

change would be consistent with surrounding properties. There were no further staff or public comments.

Commissioner Pauls wanted assurance that the location of this property would be classified properly using VMU due to the wetlands.

Mr. Blackshear spoke to the issue of wetlands and the zoning of property that surrounds the parcel. He stated that other small-scale amendments have been approved in this general location with the same flood zone designation and wetland conditions.

Mr. Jack Rhodes, representing Peterson Trust, spoke about mixed zoning that has occurred around this area. He also spoke about the isolated wetlands that exist on the property, which has been signed off on by an Environmental Scientist as to the wetlands presence, which could be permitted with a dredge and fill permit through the Corp of Engineers.

Motion by Vice-Chairman Rees, second by Commissioner Pauls to accept the recommendation of the Planning Commission and approve the Peterson small-scale amendment. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Ms. Meadows presented the Planning Commission's recommendation to grant conceptual approval of the Olde Florida Village. Mr. David Taylor is proposing a residential development consisting of two and three story homes. The homes that are to be located adjacent to the Residential Preservation area would be limited to two stories. The Planning Commission found the project compatible with the surrounding neighborhood.

Mr. David Taylor, HDR, appeared before the Board representing Max Matthews. Mr. Taylor stated that this project is being presented for conceptual review before they proceed with their development application.

Ms. Nancy James, South Walton Community Council, stated that the proposed project appears to be a good project, but questioned traffic concurrency in relation to the project. Chairman Walker stated that Mr. Arthur has worked in that area regarding traffic studies. Mr. Taylor stated that they submitted a preliminary traffic assessment.

Mr. Jack Rhodes, representing Diana Tucker, stated that this project is a Planned Unit Development (PUD) and conceptual review is required according to the LDC. Mr. Taylor stated that a development application has not yet been submitted, only a conceptual approval request.

Commissioner Pauls agreed with the concept of the project, but also questioned issues relating to parking. He stressed the need to be consistent with the code regarding additional parking for homes with more than three bedrooms. Discussion followed regarding parking and sidewalk issues.

Ms. Robin Gaston, Choctaw Engineering, questioned the process of granting conceptual review according to the LDC. Attorney Vorbeck stated that he understood this project to be outside of the ordinance and just being submitted as a matter of policy.

The commissioners reviewed the project as presented with no action being taken.

Ms. Meadows presented the Planning Commission's recommendation to approve the development proposal for Crown Castle. Crown Castle USA, Inc. is proposing a 280 foot communication tower on 6 acres designated Large Scale Agriculture. The site is located approximately 7.1 miles east of US 331 on the north side of US 98.

Ms. Mel Motley, Crown Castle USA, appeared before the Board to answer questions. There was no opposition voiced regarding this project.

Mrs. Henninger stated that Planning staff recommended approval subject to submittal of outstanding state permits.

Motion by Vice-Chairman Rees, second by Commissioner Ryan to accept the Planning Commission's recommendation and approve the proposed development for Crown Castle. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Ms. Meadows presented the Inlet Beach Water Tank co-location project. The Planning Commission recommended approval. Eliska Wireless Ventures, Inc., is proposing six panel antennas to be co-located on the Inlet Beach water tank owned by Regional Utilities. Mr. Mike Ferrell, representing Eliska Wireless appeared before the Board to answer questions. Mrs. Henninger stated that Planning staff recommended approval. There were no public comments voiced.

Motion by Commissioner Jones, second by Commissioner Ryan to accept the recommendation of the Planning Commission and grant approval for the Inlet Beach water tank co-location by Eliska Wireless. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Ms. Meadows presented the Planning Commission's recommendation to approve Palmeira Villas at Blue Mountain Beach, a Planned Unit Development. Approval is subject to the side setback being revised to 7.5 feet on the lot adjacent to Blue Mountain Road and to allow 14 feet between buildings and no landscaping in the right of way due to it being a zero lot line development. Commissioner Pauls stated that he would like to

hear from staff that this project is consistent with the previously approved project. Ms. Robin Gaston explained the proposed project and stated that the developer would like to readdress the issue of landscaping. Commissioner Pauls stated that he would like to see landscaping, however, he would like a right of way agreement with the county. Attorney Vorbeck stated that the Public Works Director is drafting a policy regarding right of way improvements. This issue will be considered after the policy is completed.

Motion by Vice-Chairman Rees, second by Commissioner Ryan to accept the recommendation of the Planning Commission and approve the proposed development of Palmeira Villas at Blue Mountain Beach, subject to no landscaping in the right of way. Ayes 5, Nays 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Ms. Meadows presented the Planning Commission's recommendation of denial for the Barker abandonment. Ms. Jacqueline Barker is requesting the abandonment of West Mitchell Street adjacent to the west 75 feet of Lot 2, Lots 304, Block 15 amended plat of Daugettes First Addition to Choctawhatchee Beach. Ms. Meadows advised that the Public Works staff recommended retaining the property for future storm water retention. A public hearing is scheduled for September 10, 2001. Mr. Arthur recommended tabling the abandonment request pending road design in the Daugette Subdivision. No action was taken pending an upcoming public hearing.

Chairman Walker thanked Ms. Heather Wellman, Public Information Officer, for the time she spent at the Emergency Operations Center during Tropical Storm Barry performing her related duties.

There being no further business, Commissioner Ryan motioned to adjourn at 9:00 p.m. Vice-Chairman Rees seconded the motion.

APPROVED: _____
Herman L. Walker, Chairman

ATTEST: _____
Martha Ingle, Clerk of Courts