

SEPTEMBER 07, 2004- LAND USE HEARING

The Board of County Commissioners, Walton County, Florida, held a Land Use Hearing on Tuesday, September 7, 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. Mrs. Shirl Williams, Assistant County Administrator, and Attorney Gary Vorbeck, Legal Services Director, were also present.

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

Mr. Mike Lane, Planning Director, announced that the applicant for Brandon Oaks 2<sup>nd</sup> Addition had requested that the item be continued until October 05, 2004.

Motion by Commissioner Rees, second by Commissioner Cuchens, to continue the Brandon Oaks 2<sup>nd</sup> Addition until October 05, 2004. Ayes 5, Naves 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mrs. Jennifer Christensen, Planning Coordinator, requested that a date be set for a public hearing for the proposed Williams Abandonment. She recommended that the public hearing be scheduled for the October 5<sup>th</sup> Land Use Hearing.

Motion by Commissioner Pauls, second by Commissioner Cuchens, to schedule a public hearing for the proposed Williams Abandonment for October 05, 2004. Ayes 5, Naves 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mr. Tom Blackshear, Senior Planner, presented the proposed Crews Small Scale Amendment. Terry Crews proposed a change to the Future Land Use Map on a .34 acre

parcel from Neighborhood Planning Area/Residential Preservation to Village Mixed Use Center. This site is located at the southwestern intersection of Nuit Lane and CR 393. Mr. Blackshear reviewed the background and site suitability information contained in the planning report. The Planning Commission recommended approval. Planning staff's recommendation was for denial of this small-scale amendment application based upon further increasing this VMUC would conflict with Comp Plan Policy L-1(B)(6), which sets the maximum acreage of any particular Village Mixed Use Center at forty acres. According to the Walton County GIS, the current FLUM designates over ninety contiguous acres of VMUC on the north side of US 98 in the immediate vicinity of the subject property. Planning staff also recommended denial based upon environmental constraints. According to the environmental assessment, approximately one-third of the property is wet.

Mr. Darrell Barnhill, representing the applicant, addressed the Board to speak about the request for this small-scale amendment. He explained why the applicant had chosen the VMU land use category. Mr. Barnhill also presented a handout and explained that they felt that CR 393 separated the 90+ acreage of VMUC, making the portion north of US 98 and west of CR 393 approximately 37 acres. He stated that adding .34 acres to the 37 acres would not be a violation of the Comp Plan policy.

Mr. Blackshear spoke about previous similar requests that had been denied by the Board. When asked by Commissioner Cuchens, Mr. Blackshear said that his opinion was that VMUC acreage is intended to be integrated. Further discussion was held regarding the issue.

Mr. Barnhill addressed the Board to make a closing comment. Mr. Terry Crews, applicant, also addressed the Board to speak briefly about the request.

Commissioner Pauls stated that he felt that the request illustrated the need for changes to the Comprehensive Plan. He talked about the need for additional land use categories.

Motion by Commissioner Cuchens, second by Commissioner Rees, to approve by ordinance the proposed Crews Small Scale Amendment (2004-29). Ayes 3, Nays 2. Jones Naye, Rees Aye, Pauls Naye, Cuchens Aye, and Pridgen Aye.

Mrs. Christensen presented the Fulmer petition for abandonment. Milton Fulmer proposed to abandon a 33-foot easement located approximately 1,527 feet from the westerly intersection of US 98 and CR 30-A. Mrs. Christensen explained that this abandonment had been approved in April, but the legal description had been advertised incorrectly at that time.

Motion by Commissioner Pauls, second by Commissioner Pridgen, to approve by resolution the proposed Fulmer petition for abandonment (2004-58) with the condition that the right to place utilities in that area is reserved. 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: Villas at Inlet Beach Plat, Vineyard at Raven Oaks Phase 4 Plat, Cottage Retreat Plat, Palmeira Villas at Seagrove Beach Plat, Hidden Grove Final Order Amendment, Lake in the Woods Development Order Number 1686 Extension, Brandon Oaks 2<sup>nd</sup>

Addition, Black Creek RV Resort PUD, Marlin Office Facility, Sweetbay 21-Lot Subdivision, Summitt Office Park, and Beach Zone.

Mrs. Christensen presented the final plat for Villas at Inlet Beach for approval. The proposed project consists of a 12 lot single-family residential subdivision and is located on Winston Lane. Staff recommended approval. There were no public comments.

Motion by Commissioner Rees, second by Commissioner Cuchens, to approve the Villas at Inlet Beach final plat for recording. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mrs. Christensen presented the Vineyard at Raven Oaks Phase 4 final plat for approval. The proposed project consists of 4 single family lots and is located within the Sandestin DRI. Staff recommended approval. There were no public comments.

Motion by Commissioner Pridgen, second by Commissioner Pauls, to approve the final plat for Vineyard at Raven Oaks Phase 4 for recording. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mrs. Christensen presented the Cottage Retreat final plat for approval. The proposed project consists of a 24 lot single-family subdivision and is located north of Scenic Gulf Drive and west of Maravilla Drive. Staff recommended approval. There were no public comments.

Motion by Commissioner Pridgen, second by Commissioner Cuchens, to approve the Cottage Retreat final plat for recording. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mrs. Christensen presented the final plat for Palmeira Villas at Seagrove Beach for approval. The project consists of a 28 lot single-family subdivision and is located north of CR 30-A between Cassine Village Plat I and Magnolia Dune Subdivision. Staff recommended approval. There were no public comments.

Motion by Commissioner Rees, second by Commissioner Pridgen, to approve the Palmeira Villas at Seagrove Beach final plat for recording. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mrs. Christensen presented a request from David McCalman, II, for an amendment to the Hidden Grove with regard to the stormwater management. Planning staff recommended approval (**Exhibit #1-Planning Report**). Mrs. Christensen submitted a copy of the final order that was issued in June (**Exhibit #2**). She stated that since the final order had been signed and sent to the applicant, the Planning Department had been contacted by the project engineer regarding the condition that Stormwater Management structures shall be located under the footprint of the houses and garages. The engineer notified them that the project was designed to have the structures under the houses only. Mrs. Christensen stated that after reviewing the information, the County Engineering Department concurred with the project design.

Motion by Commissioner Pauls, second by Commissioner Cuchens, to approve to amend the final order for Hidden Grove. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mrs. Christensen presented a request from Lake in the Woods Development Co. LLC for a one-year extension on Development Order #1686. Planning staff recommended approval (**Exhibit #1-Planning Report**).

Motion by Commissioner Cuchens, second by Commissioner Pridgen, to approve the requested extension to Lake in the Woods Development Order #1686. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mr. Carl Hammons, Planner, presented a request for approval of a major development identified as “Black Creek RV Resort PUD.” Patrick O’Neill proposed to develop a 366 space RV development with 260 Pod Type 1 RV spaces, 24 cabins and 82 camp sites on 372.47 acres with a future land use designation of Industrial. The parcel is located on the south side of CR 3280 between CR 3280 on the north, Black Creek on the south, and Creekside Drive on the east. The Planning Commission recommended approval with the following condition: No development order will be issued until a written commitment is made by a provider of public sewer service to serve this development. Planning staff recommended approval with the condition made by the Planning Commission (**Exhibit #1-Planning Report**).

Attorney Mark McMillan appeared before the Board on behalf of the applicant. He briefly questioned Mr. Hammons concerning the project. Attorney McMillan gave a brief overview of the proposed project.

Next, Attorney McMillan called Mr. Darrell Barnhill for questioning. Mr. Barnhill addressed the Board and was sworn in. Attorney McMillan questioned Mr. Barnhill regarding his background experience and asked him to give an overview of the types of uses allowed in the Industrial land use category. Attorney McMillan also asked Mr. Barnhill to describe each phase of the project.

Ms. Teresa Evans, adjacent property owner, addressed the Board to ask Mr. Barnhill questions regarding the project. She stated that she had heard that an

amphitheater would be built during one of the development phases of the project. Attorney McMillan explained that someone other than Mr. Barnhill would testify to that type of questions. Ms. Evans also questioned the comment made by Mr. Barnhill about the project being “less than 10% impervious surface”. Mr. Barnhill explained the meaning of impervious surface.

Attorney McMillan called Mr. Ezzeldin Benghuzzi, Traffic Engineer, to address the Board for questioning. Mr. McMillan began by asking Mr. Benghuzzi about his background experience as a traffic consultant. Mr. McMillan then asked Mr. Benghuzzi if the project, in Mr. Benghuzzi’s opinion, met all Walton County traffic concurrency requirements. Mr. Benghuzzi stated that the project did. Attorney McMillan further questioned Mr. Benghuzzi regarding the plans to improve Hwy 3280. Discussion was held concerning the plans for improvements.

Attorney McMillan called his last expert witness, Mr. Pat O’Neill, representative for the applicant, to the Board for questioning. Attorney McMillan asked Mr. O’Neill about his current occupation and about his involvement with the proposed project. At the request of Mr. McMillan, Mr. O’Neill gave an overview of the history of the project and their expectations for the proposed RV Park. Mr. McMillan asked Mr. O’Neill about the current plans for two large areas of property illustrated on a map. Mr. O’Neill stated that although several possibilities had been discussed, there were no current plans. He said that an amphitheater had been discussed, but at this time the only development that they were proposing was to build 366 RV sites. Attorney McMillan concluded the questioning by asking Mr. O’Neill to describe the proposed nature trails.

Motion by Commissioner Rees, second by Commissioner Cuchens, to approve the application for the Black Creek RV Resort Planned Unit Development with the condition recommended by staff. Also, with the condition that the deceleration/acceleration lanes are reviewed. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Mrs. Christensen presented a request for approval of a major development identified as “Marlin Office Facility. Thomas Baldwin proposed to develop a 12, 250 square-foot office and storage facility on 1.38 acres with a land use designation of Rural Village. This site is located approximately two miles north of Clyde B. Wells Bridge on the west side of US 331, Freeport. Planning staff and Planning Commission recommended approval (**Exhibit #1-Planning Report**).

Mr. Eric Etters, Project Engineer, addressed the Board and stated that he concurred with the recommendation made by staff. There were no public comments.

Motion by Commissioner Cuchens, second by Commissioner Pridgen, to approve the application for the Marlin Office Facility Major Development. 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 “Sweetbay 21-Lot Subdivision”. Ronnie Johnson and Bill Dozier were proposing to develop a single family residential subdivision of 21 lots on 5.55 acres with a future land use designation of Neighborhood Planning Area-Infill located on the north side of Pinewood Lane between Wall and Orange Streets in the Inlet Beach area. Planning Commission recommended approval with the following condition: No development order will be issued until a written commitment is made by a provider of public sewer service



to serve this development. Planning staff's recommendation was for approval with the condition recommended by the Planning Commission (**Exhibit #1-Planning Report**). Mr. Hammons stated that this project had previously been before and approved by the Board as a 16-lot single family residential development.

Mr. Steve Halls addressed the Board on behalf of the applicant to answer questions. There were no public comments.

Motion by Commissioner Rees, second by Commissioner Pridgen, to approve the application for the Sweetbay 21-lot Subdivision with the condition recommended by staff. 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 "Summitt Office Park". Summitt Construction proposed to develop a 25,200 square foot two-story office building on 1.84 acres with a future land use designation of Coastal Center located on the north side of US 98 near and west of Holiday Road. The Planning Commission's recommendation was for approval with the following condition: The submission of the applicant's elevations to, and approval by, the Design Review Board of the elevations prior to the September 12, 2004 BCC public hearing. Planning staff recommended approval with the condition recommended by the Planning Commission (**Exhibit #1-Planning Report**). Mr. Hammons stated that the DRB had not met on the prior Thursday, but would meet on the Thursday following this meeting. Therefore, the project had not been approved by the DRB. Discussion was held concerning the issue. Commissioner Pauls suggested tabling the project until it went before the DRB.

Mr. Barnhill addressed the Board on behalf of the applicant. He said that the project had appeared before the DRB and that the DRB had reviewed the landscaping and setback information. Mr. Barnhill stated that what the DRB wanted to see was the final architectural plans and the color scheme for the project. He further stated that the applicant was not at fault because the DRB had not met on Thursday. He requested that the Board approve the project.

Commissioner Pauls asked Mr. Barnhill if the DRB had reviewed the proposed parking. He also asked Mr. Barnhill if there was any discussion with regards to cross access agreements with adjacent property owners. Mr. Barnhill stated that the applicant owned 600 +/- acres to the east of the project and they were working with DOT in regards to a continuous cross access easement.

Motion by Commissioner Cuchens to approve the application for the Summitt Office Park contingent upon the approval by the Design Review Board.

Further discussion was held. The motion made by Commissioner Cuchens was withdrawn.

Motion by Commissioner Rees, second by Cuchens, that the project be tabled until 5:30 p.m. Tuesday, September 14<sup>th</sup> to allow the DRB to meet on Thursday. Ayes 5, Nays 0. Jones Aye, Rees Aye, Pauls Aye, Cuchens Aye, and Pridgen Aye.

Attorney Vorbeck gave a brief history of the next project, Beach Zone. He explained that the project had come before the Board prior to this meeting and there was a recommendation for denial from the Design Review Board. He said that the recommendation for denial had been appealed to the Board of Adjustments, which ruled

against the DRB. He said that they were doing as the Board had requested and was bringing the project back before the Board.

Mr. Hammons presented the request for approval of the major development identified as "Beach Zone". Lu-Val Properties, Inc., proposed to construct a 10,800 sq ft retail facility on 1.03 acres with a land use designation of Coastal Center. This site is located on 0.5 mile west of Sandestin on the north side of US 98, just west of the Sand Dollar Diner. The Planning Commission recommended approval. The Design Review Board and Planning staff recommended denial (**Exhibit #1-Staff Report**).

Attorney Dan O'Rork, Matthew & Hawkins, addressed the Board representing the applicant. Mr. O'Rork questioned Mr. Hammons regarding the recommendation made by staff and the basis of the decision. Mr. Hammons stated that no changes had been made to the existing recommendation of denial. He further stated that it had been clarified that the Board of Adjustments had overturned the recommendation made by the DRB. Attorney O'Rork requested that any negative recommendation be stricken from the record.

Attorney O'Rork presented the applicant's exhibit notebook into the record as the next exhibit (**Exhibit #2**). He briefly reviewed each of the documents contained in the notebook.

Attorney O'Rork called Mr. Dean Burgess, Engineer, for questioning. Mr. Burgess addressed the Board and was sworn in. Attorney O'Rork questioned Mr. Burgess concerning his background experience as an engineer. Attorney O'Rork further questioned Mr. Burgess regarding his knowledge about the architectural plans for the

project. Attorney O'Rork asked the Board to approve the project as it was being presented.

Ms. Beverly Kraska, representing the South Walton Community Council, addressed the Board to speak in opposition to the proposed project. She said that the Community Council agreed with the DRB that the current design of the project violated the language and intent of the Scenic Corridor Guidelines. She said that the building should be redesigned. She requested that the Board deny the project and require the applicant to redesign the building in accordance with Walton County guidelines.

Attorney O'Rork asked Ms. Kraska which provision of the LDC that the project violated. She responded that the project violated Section 13.02.01, Section A. Mr. O'Rork further questioned Ms. Kraska regarding the decision made by the Board of Adjustments.

There were no further public comments.

Chairman Jones expressed concern with the portion of the minutes from the Design Review Board Meeting on January 8, 2004, regarding a statement by Mr. Deemer. The portion of the minutes read, "Deemer stated he would take out 50% of the glass and make this a stucco panel building. Johnson stated he would agree with that type of bldg. Deemer stated they would alternate stucco panel and window for the revisions with stucco on the ends." Attorney O'Rork stated that Mr. Deemer had previously testified that he would take the idea to the project owner, but that the idea was not acceptable to the owner. Therefore, the DRB voted to deny the project.

Commissioner Rees asked Mr. Hammons if his staff recommendation was still for denial. Mr. Hammons stated that there was no recommendation. He stated that, given

the Board of Adjustment's decision, he would neither support nor oppose the development. Commissioner Pauls felt that based upon the evidence that had been presented, the applicant had shown that the project was in compliance with the LDC.

Motion by Commissioner Pauls to approve the application for Beach Zone. The motion died for lack of a second.

Motion by Commissioner Rees, second by Commissioner Cuchens, to deny the proposed project.

Further discussion was held. Commissioner Rees recommended that the project be brought back to the Board with less glass and more stucco. Chairman Jones said that the issue was that commitments were made and were not lived up to. He felt that the decision made by the DRB had been set aside, but it needed to be considered.

Attorney Vorbeck suggested that the project be continued for 30 days to allow the applicant the opportunity to make changes to the design of the project.

Attorney O'Rork called Mr. Chuck Geohagan to testify that Mr. Deemer had not made a commitment at the DRB meeting. Mr. Geohagan addressed the Board and was sworn in. Attorney O'Rork questioned Mr. Geohagan regarding Mr. Deemer's "commitment" to remove 50% of the glass and make it a stucco panel building. Mr. Geohagan stated that Mr. Deemer was at the meeting to represent the owners, but did not have specific permission to remove the glass from the building. Mr. Geohagan stated that they had gone back to the DRB with a presentation showing 50% of the glass removed from the building. Commissioner Pauls asked what plan had been presented to the Board of Adjustments. Attorney O'Rork explained the drawing that had been presented to the Board of Adjustments.

Commissioner Rees asked if there were any recommendations that Attorney O'Rork would be willing to make on behalf of the applicant in terms of reducing the amount of the glass. There were no recommendations voiced.

Attorney Vorbeck asked Attorney O'Rork if it was possible if the project was continued for 30 days could they come back with alternatives to reduce the amount of glass. Attorney O'Rork asked what would be an acceptable project to the Board. Chairman Jones stated that any reduction of the glass would be a benefit. Further discussion was held concerning the changes that had been made to the project.

The motion on the floor was withdrawn.

Motion by Commissioner Rees to continue the project until October 5, 2004 to allow the applicant the opportunity to consider alternatives to reduce the amount of glass. Commissioner Cuchens second the motion. Ayes 4, Nays 1. Jones Aye, Rees Aye, Pauls Naye, Cuchens Aye, and Pridgen Aye.

There being no further business, the meeting adjourned at 7:00 p.m.

APPROVED: \_\_\_\_\_  
Larry D. Jones, Chairman

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