

There was a special meeting Monday, October 22, 2001, @ 5:00 p.m. at the TDC Building in S. Walton.

Members present: Rees, Jones, Pauls and Ryan

Prior to the meeting, Commissioner Jones Led with prayer following the pledge of allegiance to the American Flag.

Vice-Chairman Rees called the meeting to order in the absence of Chairman Walker.

Vice-Chairman Rees entered and read for the record a letter from Commissioner Jones stating he would abstain from any discussion and/or vote concerning Baywalk Landing PUD, to assure there is no conflict or the appearance of any conflict of interest.

Vice-Chairman Rees explained the purpose of the meeting was a Quasi- Judicial Hearing regarding Baywalk Landing Planned Unit Development (PUD).

Vice-Chairman Rees introduced Attorney David Theriaque, the applicant's attorney and

Attorney Steve Hall representing Miramar Bayshore Alliance Team

Attorney Vorbeck informed the Chairman that anyone in the audience could address the Board regarding this issue without legal representation.

Vice-Chairman Rees followed by asking anyone in the audience not represented by Attorney Theriaque or Attorney Hall if they would like to address the issue. There was no one present in the audience not represented by council.

Attorney Vorbeck swore in all participants who would take part in the hearing.

After further discussion it was decided Attorney Theriaque would present his side first.

Attorney Hall had no objections.

Mr. Russell D. (Russ) Aldrich, President of Emerald Coast Associates, Inc. appeared before the Board as a witness for the applicant.

Attorney Theriaque presented Mr. Aldrich's resume and asked for it to be entered in as evidence marked Exhibit 1.

The Board accepted this exhibit

Mr. Theriaque presented a large exhibit of the Site Plan for the Commissioners to view throughout the hearing.

Attorney Therraque questioned Mr. Aldrich regarding his profession, which followed with discussion regarding the application, location of the project, subdivision, etc. At this time, Attorney Therraque ask that the County's Comprehensive Plan be entered in as evidence as Exhibit Two. (The Comprehensive Plan was not given to the Clerk)

The Board accepted the Walton County Comprehensive Plan as evidence.

Attorney Vorbeck advised for accuracy of the record that these exhibits be marked and entered consecutively.

Exhibit 3 - Walton County's Land Development Code (Not given to the Clerk)

Exhibit 4 – Excerpt from the Walton County Comprehensive Plan – Page 19, (5)  
Coastal Center (CC)

Exhibit 5 – Excerpt Walton County Land Development Code – Page 41, M.  
Coastal Center (CC)

The Board accepted these exhibits as evidence.

Mr. Aldrich was then asked by Attorney Theriaque to describe the two-phase project, the number of units, and how each phase is broken up.

Mr. Aldrich stated the overall project is basically a single family residential development consisting of lots that range between 50 -55 feet in width, and 90-130 feet in depth, with medium level housing that will probably be 1200-1400 square feet. In addition, there will be a small recreational area on the west side of the cul-de-sac. Mr. Aldrich further explained there would be private streets having some impact on the wetlands, but would be permissible under DEP criteria. In addition, Mr. Aldrich described the two-phase project: Phase one is to the west of Geronimo Street and Phase Two is to the east side of Geronimo Street. Mr. Aldrich also said there were 55 single-family lots on the west side and about 22 on the east side. Further discussion included issues of acreage, landscape, buffers and the preservation area.

Attorney Theriaque asked Mr. Aldrich if he was aware that 25% of the natural community vegetation is to be retained in this type of community. Mr. Aldrich stated yes, and to the best of his knowledge, the site plan included the twenty-five percent.

Further discussion was held regarding the native vegetation and the twenty-five foot retained area strips. In addition, Mr. Aldrich advised there was a small area of wetlands located in the northern part of the tract of the east side of Geronimo Street.

Attorney Theriaque further questioned if any of the wetlands being preserved were DEP jurisdictional wetlands, and how much wetland acreage there was. Mr. Aldrich said there were approximately 44.9 acres.

Attorney Theriaque submitted a copy of the Wetland Resource Permit and asked that it be entered as evidence marked Exhibit 6. Attorney Hall had no objection.

The Board accepted the evidence presented

Mr. Aldrich stated he had worked on more than twelve projects involving wetlands since the adoption of the Comprehensive Plan, and the Land Development Code in Walton County.

Attorney Theriaque further questioned Mr. Aldrich regarding his knowledge of projects involving wetland procedures and the process Walton County uses regarding federal permits, buffers and the Florida Statutes definition of wetlands in order to receive a developmental order.

Mr. Aldrich stated the proposed project was a PUD from the standpoint of how PUD's have been looked at historically in Walton County over the last ten to fifteen years.

There was continued discussion between Attorney Theriaque and Russ Aldrich on PUD deviations and setbacks of the subdivision requirements. There was lengthy discussion regarding the application, blocks, width, measurements, square, distance, roads, intersections, etc.

Attorney Theriaque submitted an excerpt of the Walton County Land Development Code Page 63, 2.06.00 & 2.06.0 – Planned Unit Development Standards and asked that it be entered as evidence marked Exhibit 7.

The Board accepted this exhibit as evidence.

Discussion continued between Attorney Theriaque and Mr. Aldrich regarding the Planned Unit Development Standards and his involvement with other projects where he has utilized WCLDC PUD process. In addition, Mr. Aldrich was asked if he had ever been asked by the County to demonstrate public benefits, creativity, innovativeness,

diversity, and integration of usages of structures. Mr. Aldrich replied that he had never been required to demonstrate any of the above-mentioned factors in the past, and to his knowledge the Walton County Board of Commissioners has never discussed these factors in any public hearings regarding PUD's.

Mr. Aldrich was asked to state three public benefits the project offers the community. (1) Minimizing storm water and potential flooding (2) Utilizing some of the natural vegetation as buffers as well as replanting (3) a six foot privacy fence.

Attorney Theriaque asked that the following be entered in as evidence and marked accordingly:

Exhibit 8 – Picture of Legion Park.

Exhibit 9 a - c – Composite exhibit of the Seawall at Legion Park

Exhibit 10 – Legion Park Playground

Exhibit 11 – Legion Park Playground Equipment

The Board accepted these exhibits as evidence.

There was continued discussion between Attorney Theriaque and Mr. Aldrich regarding the deterioration of the seawall. Mr. Aldrich stated the applicant has agreed to pledge \$6,000.00 towards the repairing of the seawall.

As an additional public benefit, the applicant agreed to purchase and install playground equipment at Legion Park. Attorney Theriaque stated that the park is located off site from his client's property.

Attorney Theriaque questioned Mr. Aldrich regarding the PUD process. Attorney Theriaque stated that in looking at the Code, there appeared to be some language about a preliminary or conceptual PUD verses a detailed PUD. Mr. Aldrich stated that none of

the PUD's he has presented to the County since the adoption of the Code has required him to break up his submission in two different instruments, one being conceptual and the actual project.

Attorney Theriaque asked Mr. Aldrich, in his opinion and based on his review of the materials, does the project meets all the requirements of the Walton County Comprehensive Plan. Mr. Aldrich stated it did.

Mr. Steve Hall, Attorney for Miramar Beachshore Alliance Team, appeared before the Board to present his cross-examination.

Attorney Hall presented a narrative from Choctaw Engineering, Inc., which was revised June 18, 2001, and asked that it be submitted as evidence marked Exhibit 12.

The Board accepted this exhibit.

Attorney Hall questioned Mr. Aldrich regarding the application and the different phases of the project as well as the wetlands, DEP requirement and Core Permit Application. Mr. Aldrich stated that as of this date his client had not received his Core Permit Application.

Attorney Hall questioned Mr. Aldrich regarding permit deviation. Mr. Aldrich stated that these items were not in the permit, but were addressed throughout the process.

Attorney Theriaque called Robyn W. Gaston, Engineer, Choctaw Engineering, Inc., as a witness. Attorney Theriaque submitted Robyn Gaston's resume and asked that it be entered as evidence marked Exhibit 13.

The Board accepted this exhibit as evidence.

Attorney Theriaque questioned Ms. Gaston regarding her role in Baywalk Landing PUD. Ms. Gaston stated she was the Civil Engineer, Project Manager/Designer.

Ms. Gaston further stated she conducted the site engineering as well as the storm management, storm water calculations and traffic concurrency.

Attorney Theriaque submitted a Traffic Concurrency Analysis, completed by Robyn Gaston and asked for it to be entered in as evidence and marked Exhibit 14. Attorney Theriaque then presented a memo from the Walton County Planning Department and asked that it be entered as evidence marked Exhibit 15.

The Board accepted these exhibits as evidence.

Ms. Gaston explained and described in detail how she designed the Storm Water Drainage System for Baywalk Landing PUD.

Attorney Theriaque submitted a copy of a plat for Flamingo Beach Subdivision and requested it be entered in as evidence marked Exhibit 16. Ms. Gaston described for the Board where the drainage easement was located.

The Board accepted this exhibit as evidence.

Attorney Theriaque submitted a copy of a letter from Preble-Rish, Inc., Consulting Engineers, and requested it be entered in as evidence marked Exhibit 17. Ms. Gaston testified that the letter stated them to be in compliance with the Walton County Land Development Code. Ms. Gaston further stated, based on her professional expertise and training, she believes the storm water system she designed is professionally expectable and meets the requirements of Walton County.

Attorney Steve Hall questioned Ms. Gaston regarding her involvement with the layout of the site plan, side setbacks, storage volume and site-specific test borings performed by PSI. Mr. Hall indicated he did not recall seeing the PSI report in the file.

Mr. Spence King appeared before the Board as a witness for the applicant. Mr. King is the owner and CEO of Choctaw Engineering, Inc. Attorney Theriaque asked the Board to allow Mr. King to be tendered as an expert in Civil Engineering. Mr. King gave his opinion and specifics of the storm water system designed by Ms. Gaston and believes the system will function very well.

Attorney Hall questioned Mr. King regarding the pop-off and discharge points located on the site.

Gail Easley appeared before the Board as a witness for the applicant. Ms. Easley was tendered as an expert witness in Planning. Attorney Theriaque presented a copy of Ms. Easley's resume and requested it be entered in as evidence marked as Exhibit 18. Ms. Easley stated she had examined the project and found it to be compatible with the existing development. Ms. Easley further stated there were three particular investigations she completed: (1) Researching the Comprehensive Plan to determine what the applicable compatibilities are; (2) Review the Site-Plan to see what the proposed layout and the character of the project is; (3) Site-Visit, to look at the specific site and to tour the neighborhood that surrounds the site. Ms. Easley further stated she had been called numerous times to testify in court regarding compatibility in similar cases. Ms. Easley testified that this project is compatible with the neighborhood and consistent with all of the compatibility requirements of the Walton County Comprehensive Plan.

Commissioner Rees asked Ms. Easley if she could define compatibility. Ms. Easley stated compatibility in general Planning issues, means a condition where a proposed use, or a proposed building fits, or is in harmony with and not intrusive, or does not have undue negative impact that effects the stability of a neighborhood.



Mr. Jack Arthur, Director of Growth Management, appeared before the Board and presented the original Planning Department Report along with the Planning Commission findings and entered them into evidence, marked Exhibit 19.

Attorney Vorbeck stated for the record, that Mr. Arthur be tendered as an expert witness. There were no objections.

Mr. Arthur made some additional comments regarding the Land Development Code and mixed residential and commercial uses. Mr. Arthur further stated that this particular subdivision does not meet the intent of the Code. Mr. Arthur confirmed that historically, past practices has allowed PUD's to be strictly single-family residences. Mr. Arthur stated his opinion regarding drainage, preservation of flat woods and DEP requirements. In addition, Mr. Arthur stated that some of the blocks mentioned do not meet the requirements of the Land Development Code. Mr. Arthur believes it would be in the County's best interest to work with the Public Works Department to provide some improvements to the drainage system along Geronimo Street.

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Attorney Theriaque questioned Mr. Arthur regarding the issues he brought out. Mr. Theriaque stated for the record that Mr. Arthur notified the applicant's attorney at 3:00 p.m. this afternoon that Staff would raise an issue as to whether the PUD requirements were met. Attorney Theriaque continued to question Mr. Arthur regarding the hydrologic capacity of the easement, deviation of the block size, his education, experience, interpretation of the Land Development Code, PUD's, preservation area, Exhibit 17 – letter from Preble-Rish, Inc, public health safety issues, etc.

Attorney Hall questioned Mr. Arthur regarding evidence and testimony on flooding and storm water capacity issues, the intent of the PUD ordinance, preservation and compliance issues presented at the September 4, 2001, Planning Commission Meeting. Attorney Hall stated Mr. Arthur's testimony to be that this plan does not meet the requirements of the Land Development Code. Mr. Arthur stated that was correct. Mr. Arthur further stated the Planning Commission's intent is to advise the Board on what is appropriate for today and ignore past practices. Mr. Arthur further stated he does not feel obligated to continue with past practices.

Attorney Theriaque questioned Mr. Arthur regarding the interpretation of a code. Mr. Arthur further stated the Board has the final authority in interpretation of a code. There was further discussion regarding the application and the site-plan.

Attorney Vorbeck asked Mr. Arthur, in his opinion, could this property be developed under the current standard sub-division regulations in Walton County. Mr. Arthur stated he had no knowledge to the contrary.

Vice-Chairman Reese inquired if the Planning Commission would present any information. Attorney Theriaque objected to any information being presented other than the Planning Commission's final decision. Ms. Cindy Meadows presented the Planning Commission's findings and reason for denial. She further questioned the process and additional information being presented to the Commissioner's, but not having previously been heard by the Planning Commission. Attorney Vorbeck stated that it is an evolving process and impossible for identical presentations to be given from one hearing to the next.

The Commissioner's recessed briefly.

Attorney Hall questioned Mr. Mike Flint, City Administrator for the City of Valparaiso and resident of the Miramar Beach area. Mr. Flint appeared before the Board and testified as an expert witness in the regulation of land planning and development and application of comprehensive plan and land development provisions to applications for land development orders. Mr. Flint gave an overview of his education and experience. Mr. Hall continued questioning Mr. Flint who stated that he lives within 300 feet of the proposed project and has received notice. Mr. Hall entered the Miramar Bayshore Alliance Articles of Corporation into record; exhibit 20, with no objections. Mr. Hall questioned Mr. Flint as to his familiarity with the project. Mr. Flint explained that there is a process for PUD's with a conceptual plans being reviewed and approved before the final plan. Attorney Hall further questioned Mr. Flint regarding property uses.

Mr. ??? questioned Mr. Flint regarding his familiarity with the Walton County Codes. Mr. Flint stated that he has reviewed Walton County's Code, however, he has never testified as an expert Planner before this hearing.