

DECEMBER 2, 2003-LAND USE HEARING

The Board of County Commissioners, Walton County, Florida, held a Land Use Hearing on Tuesday, December 2, 2003 at 5:00 p.m. at the South Walton High School.

The following Board members were present: Larry Jones, Chairman, Tim Pauls, Vice-Chairman, Commissioner Ro Cuchens, Commissioner Lane Rees, and Commissioner Kenneth Pridgen. Mr. Mike Underwood, County Administrator, Attorney Gary Vorbeck, Legal Services Director 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. Vice-Chairman Pauls recused himself from the discussion concerning the development proposal of the South Walton Athletic Facility and reserved the right to speak as an individual and as a property owner on the matter. All commissioners acknowledged all ex parte communications that had been received regarding the project being presented. The commissioners stated that the communications would not affect their ability to make fair and impartial decisions. Attorney Vorbeck administrated the oath to those individuals who would be speaking on the matter.

Commissioner Rees suggested that the Board designate a certain time to conclude the meeting in order for everyone to get home at an appropriate time. Attorney Dana Matthews, representing the applicant, recommended that the Board allow the public to make their comments first. Attorney Scott Shirley, representing individuals in the neighborhood, stated that he would rather that the Board allows the testimonies to be presented before allowing the public to speak. He felt that the Board might be affected

by the public comments before the evidence could be presented. Mr. Shirley presented to the Board as an exhibit a list of aggrieved or adversely affected parties. (**Exhibit #1-List of Aggrieved or Adversely Affected Parties**) Further discussion was held regarding the length of time it would take to hear all of the evidence and public comments. Ms. Christine Guard, Assistant General Counsel for the Department of Environmental Protection, stated that they planned to move as expeditiously as possible; however, they did have a presentation to make to the Board. It was the general consensus of the Board to follow procedure and allow the testimonies to be heard first.

Mr. Tim Durbin, Planning Technician II, presented the proposed major development identified as “South Walton Athletic Facility—Boys/Girls Club”. The Boys and Girls Club of Emerald Coast propose to construct a 75,719 total square-foot recreation facility. This facility is to include 42,703 square-foot Recreation Facility; 17,580 square-foot Swimming Pools; 1,800 square-foot concession stand; 13,636 square foot Private Club; two regulation size soccer fields; two regulation size baseball fields with restrooms and a storing facility on 22.4 acres with a land use designation of NPA/Infill. This site is located on the west side of County Road 30-A north of Beachview Woods Phase I. Planning staff recommended approval of the project contingent upon approved applicable permits, compatibility analysis, conditional use, and demonstration of need. The Planning Commission also recommended approval of the project. (**S.W. Athletic Facility Exhibit #2-Staff Report**)

Attorney Vorbeck, for the record, explained to the public that the exhibits would be taken in by the Clerk’s Office and would be numbered consecutively. Attorney Shirley agreed that was acceptable. Attorney Matthews requested that the entire Planning

Department file regarding the project be presented as an exhibit into the record. Mr. Durbin stated that the staff report was usually the only item submitted into the record. Attorney Vorbeck stated that the applicant could have the entire file, but the only item being presented at the time was the Planning staff report.

Further discussion was held regarding the Planning Department's stipulation for an approved compatibility analysis. Mr. Durbin stated that the Planning Department had reviewed the compatibility analysis that was in the staff report, but the Planning Department does not determine if a project is compatible. Attorney Matthews questioned Mr. Durbin in regards to the designation of the property for the proposed project as NPA/Infill. Mr. Matthews asked Mr. Durbin if the applicant of the Boys and Girls Club met all of the Land Development Code (LDC) and Comprehensive Plan (Comp Plan) provisions of Walton County. Mr. Durbin stated that yes the applicant met all of the requirements except for the items that approval of the project were contingent upon. Mr. Matthews further questioned Mr. Durbin regarding whether there was a provision for a compatibility analysis to be conducted on land use designation of NPA/Infill. Mr. Matthews also questioned Mr. Durbin concerning specific criteria required by Walton County. Mr. Matthews asked if the applicant met all setback requirements, height restrictions, and landscaping requirements by Walton County LDC in the cite plan. Attorney Shirley cross-examined Mr. Durbin. He asked about the compatibility analysis as a one of the conditions for approval of the project and about Comp Plan provisions bearing on Infill land use. Mr. Shirley presented and questioned Mr. Durbin regarding a copy of the Neighborhood Planning Map Series. **(Exhibit #3-Map Series)** Mr. Shirley further questioned Mr. Durbin about the NPA and the different uses in the NPA.

Attorney Matthews questioned about handwriting that was on the map that Mr. Shirley had. He felt that it should be clarified if it was written on the document at the time the map was approved or at some subsequent time. Mr. Durbin clarified that the handwriting was also written on the maps that were used by the Planning Department. Therefore, Attorney Matthews had no objection to the document being submitted into the record. Mr. Shirley questioned Mr. Durbin about a flyer that was published by the county. The flyer was entitled "Neighborhood Planning Area," in which Mr. Shirley stated described the concept behind the NPA. The Board recessed for a brief time to allow Attorney Matthews to review the document. Mr. Shirley questioned Mr. Durbin regarding the language in the flyer concerning the sizes of undeveloped parcels for the Infill Area, Small Neighborhood Projects, and Traditional Neighborhood Projects. Mr. Shirley asked if the Infill projects were intended to be the smallest projects with the least amount of impact based on acreage along with other factors. Mr. Matthews objected to the question because Mr. Durbin was not employed with Walton County when the Comp Plan was adopted. He stated that the document Mr. Shirley was reading from was not taken directly from the LDC and felt that if they were going to deal with code provisions that they should be read precisely as they are written in the code. Mr. Shirley presented to Mr. Durbin a document recognized as a copy of the Walton County Comprehensive Plan. Mr. Shirley questioned Mr. Durbin about provisions dealing with various subjects regarding the NPA that were shown in the document. He asked Mr. Durbin if the language in the Comp Plan concerning the size of the underdeveloped parcel was the same as the language of the flyer. Mr. Durbin referred to his Comp Plan and agreed that the language in his Comp Plan matched the language of the Comp Plan that Mr. Shirley

held. Mr. Shirley asked Mr. Durbin if according to the Comp Plan, Infill projects were projects that were conducted in the Infill category and are less than 10 acres in size. Mr. Matthews objected to the statement made by Mr. Shirley; he said that Mr. Shirley was reading the last parenthetical of the statement. Mr. Matthews stated that the Comp Plan states “Infill development generally consists...” Therefore, he felt that it was not limited to 10 acres. Attorney Shirley questioned about the 10-acre or less requirement and the evaluation of whether the property was 10 acres or less in size. Mr. Durbin stated that the property was not evaluated. Mr. Shirley further questioned about the requirement of parcel sizes in Infill and Small Neighborhood Projects and about the determination that the property was more than a single parcel and about the parcel id number of the property.

Ms. Guard questioned Mr. Durbin concerning the definition of “Infill” in the LDC and how the parcels of land qualified under that definition. Mr. Durbin responded that the parcels of land were identified as Infill in 1996. Attorney Matthews referred to the use of the word “generally” in the definition of “Infill” in the LDC. Mr. Matthews requested for the record the original Exhibit #2 so that the witness could mark on the original exhibit. The Administrative Clerk provided Mr. Matthews with Exhibit #2 (Exhibit #2 was not returned to the Clerk for the official record). Mr. Matthews referred to page 7 of the exhibit two and asked Mr. Durbin to draw an arrow to the Beachplace project that was recently approved by the county. Mr. Durbin noted that he drew an arrow by the approved project of Topsail Village, which was in the same general area of the property for the proposed project. Mr. Matthews questioned Mr. Durbin regarding the approved project of Topsail Village and Mr. Durbin’s involvement with the

Beachplace and Noble Dune PUD approval. Attorney Shirley questioned if the projects that were asked about were in the Infill land use category.

Commissioner Rees questioned if the overall use of the project was consistent with being a Civic Use. Mr. Durbin replied that yes that was correct.

Attorney Matthews stated that they had a power point presentation to present to the Board. He gave some opening comments and a brief history of the project. Mr. Matthews stated for the record, that they did not believe that the Comp Plan requires that a compatibility analysis be submitted. The power point presentation covered various features of the project including programs offered by the Boys & Girls Club at their facilities. Attorney Matthews presented a notebook to each of the commissioners and submitted one into the record as an exhibit (**Exhibit #4**). Mr. Shirley objected to the notebook being entered as an exhibit because he was not provided with a copy of the notebook and because he was not familiar with all of the documents contained in the notebook. Mr. Shirley also objected to the power point presentation presented by Mr. Matthews because he considered it as hearsay. Mr. Matthews addressed Mr. Shirley's objections and provided a copy of the notebook to him. Chairman Jones stated that the notebook would be accepted into the record as an exhibit. Ms. Guard also objected to the notebook and the power point presentation. Mr. Shirley noted for the record that hearsay was only admissible for the purpose of supplementing or explaining other evidence.

Attorney Matthews called Mr. Joe Dougherty, Project Architect, as his first witness. Mr. Dougherty reviewed the location and the setbacks of the proposed property. He also explained the interior and exterior design of the facility. Mr. Matthews questioned Mr. Dougherty regarding the shared use of the facility. Attorney Thomas

Tomasello, also representing individuals of the neighborhood, cross-examined Mr. Dougherty regarding the mission and the “four key characteristics” of the Boys & Girls Club. Attorney Tomasello felt that the proposed project was not dedicated to the youth; that it was nothing more than a commercial facility hiding under the guise of a “Boys & Girls Club”. Mr. Matthews objected to the comments made by Mr. Tomasello.

Ms. Guard also cross-examined Mr. Dougherty regarding the lighting of the playing fields, meetings that were held with representatives of the DEP, the PA system and noise trespass concerns, and the natural buffers. The commissioners recessed briefly.

Attorney Matthews for the record had Mr. Dougherty confirm that he had written a letter in Tab 10 of the notebook (Exhibit #4). Mr. Dougherty described the letter that he had written. Mr. Matthews submitted into the record a composite exhibit (**Exhibit #5**) including the cite plan and layout of the facility, exterior elevations, floor plans, and an attached photometric study. Attorney Shirley objected to any item in Exhibit #5 that was not prepared personally by Mr. Dougherty. Ms. Guard also objected to any item that was not prepared by Mr. Dougherty. Mr. Matthews had Mr. Dougherty verify other documents that were also contained in the notebook. Mr. Matthews submitted into the record a document demonstrating the exterior elevations for the proposed project (**Exhibit #6**).

Attorney Matthews called his second witness Mr. Hank Bruns, Landscape Architect. Mr. Bruns explained the landscape plan and reviewed the LDC requirements for buffering and for parking lots. Mr. Matthews asked Mr. Bruns about the fences that would be provided as buffers. Attorney Tomasello questioned Mr. Bruns regarding the heights of the trees and the light structures for the project. Ms. Guard questioned Mr.

Bruns regarding the buffering and the vegetation. Mr. Matthews for the record asked Mr. Bruns if the cite plan in Tab 11 of Exhibit #4 was a correct copy of the landscaping plan submitted to the county and if the copy of Mr. Bruns curriculum vita in Tab 24 of Exhibit #4 was a true and accurate copy. Mr. Bruns verified that it was a correct copy of the landscaping plan submitted to the county in Tab 11 and it was a true and accurate copy of his curriculum vita in Tab 24.

Mr. Matthews called his third witness Mr. Hank Lawson, Lighting Consultant. Mr. Lawson explained the proposed exterior lighting for the project. Further discussion was held concerning light spillage. Attorney Tomasello cross-examined the witness regarding previous comments made by the witness pertaining to the lighting standards of the Illumination Engineering Society (IES). Mr. Matthews objected to Mr. Tomasello's questions. Ms. Guard further questioned Mr. Lawson regarding the proposed lighting for the project. She inquired about the heights of the poles that would be used in the different playing fields. Ms. Guard also questioned about possible light glare and spill over into a nearby campsite. Mr. Matthews asked Mr. Lawson to confirm that the copy of Mr. Lawson's curriculum vitae in Tab 24 of Exhibit #4 was true and accurate. Mr. Lawson confirmed that it was.

Ms. Marissa Benton, Principal of South Walton High School, addressed the Board representing Mr. Coy Yates of the Walton County School District. Ms. Benton presented information concerning the number of students in the Freeport/South Walton areas and plans for construction of a middle school at Van R. Butler Elementary. Mr. Matthews questioned Ms. Benton about the location of Butler Elementary School in terms of the

proposed development. Mr. Matthews noted the information Ms. Benton presented was in Tab 35 of Exhibit #4.

Attorney Matthews called his fourth witness Dr. Gerald Moshiri. Dr. Moshiri gave a brief history of his occupational and educational backgrounds. Mr. Matthews questioned Dr. Moshiri regarding endangered species on the property for the proposed project. Dr. Moshiri stated that the Fish & Wildlife Services' only concern was with the nesting of the marine turtles. Mr. Shirley and Ms. Guard objected to Dr. Moshiri's testimony. Mr. Matthews furthered questioned Dr. Moshiri. Attorney Tomasello cross-examined Gerald regarding educational training on the effect of lighting on fledglings and nestlings. Ms. Guard cross-examined Dr. Moshiri concerning the topography and ecology of the site. She also questioned Dr. Moshiri regarding beach mice and marine turtles. Mr. Matthews asked Dr. Moshiri to verify that the copy of Dr. Moshiri's curriculum vitae contained in the exhibit #4 was an accurate copy. Dr. Moshiri stated that it was.

Mr. Matthews called his next witness Mr. Fred Goodrow, Consultant Planner. Mr. Matthews asked Mr. Goodrow to verify that the copy of the compatibility analysis contained in exhibit #4 was a true and accurate copy; Mr. Goodrow stated that it was. Mr. Goodrow reviewed the compatibility analysis contained in tab 20 of the notebook. Mr. Matthews questioned Mr. Goodrow regarding an aerial map with the proposed site color coded in orange and labeled P1-P24. Mr. Matthews submitted corresponding photographs P1-P24 (**Exhibit #7**). The Board recessed briefly.

Attorney Matthews further questioned Mr. Goodrow regarding the photographs that were submitted into the record. Mr. Matthews also asked about the site plans of

surrounding projects that were approved by the Board. These site plans were included in exhibit #4. Mr. Shirley and Ms. Guard objected to Mr. Matthews's questions. Mr. Matthews continued to question Mr. Goodrow regarding compatibility. Mr. Matthews had Mr. Goodrow verify that the copy of his curriculum vita contained in tab 24 of the notebook was a true and accurate copy. Mr. Matthews entered into the record the aerial map as part of exhibit #7. Ms. Guard objected to the aerial map because it was dated 1995. Attorney Shirley cross-examined Mr. Goodrow regarding the compatibility analysis prepared for the project and criteria set for Infill projects. Mr. Shirley also questioned Mr. Goodrow regarding the compatibility of the proposed project with existing neighborhoods. For the record, Mr. Shirley asked where the school was specifically located in relation to the school. Mr. Goodrow stated that it would take approximately two minutes to walk from the school to the proposed site. Ms. Guard further cross-examined Mr. Goodrow concerning the compatibility analysis.

The Board decided to continue the meeting on Tuesday, December 16, 2003.

There being no further business, the meeting adjourned at 10:45 p.m.

APPROVED: _____

Larry D. Jones, Chair

ATTEST: _____

Martha Ingle, Clerk of Courts