



MINUTES

Board of County Commissioners

Thursday, September 24, 2020 @ 9:00 AM

DeFuniak Springs Board Room

Land Use Hearing

COMMISSIONER ATTENDANCE

PRESENT: Commissioner Bill Chapman, Commissioner Danny Glidewell, Commissioner Melanie Nipper, Commissioner Trey Nick, and Commissioner Tony Anderson

STAFF PRESENT: Larry Jones, County Administrator and Sidney Noyes, County Attorney

PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND INVOCATION

CALL TO ORDER

Chairman Chapman called the meeting to order.

PUBLIC HEARING

- 1. Request to approve an Ordinance, Resolution, and Letter of Agreement imposing a non-ad valorem tax assessment for the hospitals in Walton County.**

Attorney Sidney Noyes, County Attorney, briefly discussed the request regarding the imposition of a non-ad valorem tax assessment only on the hospitals in Walton County to allow them to receive federal funding for indigent care to the local citizens. She stated there are representatives from both hospitals present. She said three separate motions would be needed with this agenda item.

Motion by Commissioner Anderson, second by Commissioner Glidewell, to open the public hearing.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell, Commissioner Nipper, Commissioner Nick, and Commissioner Anderson

Attorney Noyes continued discussing the special assessment for the two hospitals. She reviewed how the funds gathered through the assessment would be collected by the county and submitted to AHCA (Agency for Health Care Administration). Once AHCA has submitted the funds to the federal government, the hospitals would be allowed to draw down 150% of what was submitted in taxes.

Chairman Chapman asked Ms. Jewel Kariher, representing Ascension Sacred Heart, if the distribution of the funds were audited by AHCA or another entity. Ms. Kariher discussed how these funds are a part of the low-income pool which is approved yearly by the legislature. The funds are matching funds by the state and flow through a statute approved formula. She said a recording mechanism is in place for hospitals to report how much is spent on charitable cases. Chairman Chapman noted that Ascension Sacred Heart corporation had hospitals in several locations and asked if they would be prepared to commit that these funds be spent only on the indigent citizens of Walton County. Ms. Kariher said the funds will flow through the Pensacola hospital but will be spent on existing programs and expanding programs in Walton County.

Chairman Chapman asked Attorney Clayton Adkinson, representing Healthmark Regional, if Healthmark Regional would commit those funds to Walton County residents only. Attorney Adkinson confirmed they would. He reported that the two hospitals have agreed on all three documents being presented.

Commissioner Glidewell asked Mr. Brian McBroom, Walton County Tax Collectors Office or Ms. Melissa Thomason, Walton County Finance Director, who would be collecting the tax assessment. Mr. McBroom said the Tax Collectors office would not be involved. Chairman Chapman asked if the funds would be collected in Ms. Thomason's office and forwarded to AHCA in Tallahassee, FL. Ms. Thomason discussed how the funds would be received and submitted to AHCA. Commissioner Glidewell asked if these funds are audited and who would repay the money if there are issues. Ms. Thomason replied the hospitals would be responsible. Attorney Noyes confirmed an indemnification clause was included in the ordinance and resolution language which would hold the hospitals responsible.

Motion by Commissioner Nick, second by Commissioner Glidewell, to adopt an ordinance **(2020-17)** approving the imposition of a non-ad valorem tax assessment for the hospitals in Walton County for the purpose of increasing funding available for the care of indigent Walton County citizens.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

Motion by Commissioner Anderson, second by Commissioner Nipper, to adopt a resolution **(2020-117)** authorizing, levying, and imposing non-ad valorem tax assessment for the hospitals in Walton County for the purpose of providing charity health care to indigent members of Walton County.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

Motion by Commissioner Nipper, second by Commissioner Nick, to approve a Letter of Agreement imposing non-ad valorem tax assessment for the hospitals in Walton County.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

Motion by Commissioner Nipper, second by Commissioner Glidewell, to close the Public Hearing.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

CONSIDER ADDITIONS/DELETIONS

Additions:

Add #1 - Request to appoint an elected official to the Affordable Housing Advisory Committee

Request to appoint an elected official to the Affordable Housing Advisory Committee

Mr. Mac Carpenter, Planning and Development Director, requested an elected official be appointed to the Affordable Housing Advisory Committee. He reported this was a new statutory requirement and that Chapter 1 of the Land Development Code will be amended to add that requirement. The appointment will need to be made prior to October 1, 2020. Chairman Chapman asked if the county was receiving the minimum SHIP allocation. Mr. Carpenter said the minimum amount was received last year but will potentially receive triple the amount this year if the legislature frees the funds. Attorney Noyes suggested appointing a commissioner to temporarily fill the seat and reassess after the new board is seated in November. Chairman Chapman noted training for this position will be held on October 29th. A brief discussion was held to determine which commissioner would be appointed.

Motion by Commissioner Nick, second by Commissioner Nipper, to appoint Commissioner Anderson to the Affordable Housing Advisory Committee.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

PLANNING AND DEVELOPMENT SERVICES

LEGISLATIVE ITEMS

2. **Land Development Code Amendments Related to Plats – Request to approve by ordinance. Second and final reading of an ordinance containing proposed technical and substantive amendments to Chapter 1 of the Walton County Land Development Code specifically related to the process requirements for lot line shifts, lot splits and lot fusions in recorded plated subdivisions falling under the requirements of Florida Statutes Chapter 177 Part 1. The proposed amendments create consistency with this Statute and install additional regulations and restrictions.**

Mr. Carpenter asked to continue this item to the October 24, 2020 Land Use Hearing to allow for two other amendments to Chapter 1 to be presented. The change in the Affordable Housing Advisory Committee is one of the amendments to be added.

Motion by Commissioner Glidewell, second by Commissioner Nipper, to continue the Land Development Code Amendments Related to Plats to the October 24, 2020 Land Use Hearing.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

3. **King SSA - This is a request to correct a scrivener's error in an adopted Ordinance (2018-16). Project Number LUM18-000006 is being reviewed by Bob Baronti. This SSA correction application submitted by Walton County Board of County Commissioners on behalf of Hunters Road, LLC. Requesting to change the Future Land Use to Commercial and the Zoning District to General Commercial on 2.22 +/- acres. The Project is located at the southwestern corner of U. S. Highway 331 and Short Avenue and is identified by parcel number 04-2S-19-24000-023-0000.**

Mr. Carpenter briefly presented the request.

Motion by Commissioner Nipper, second by Commissioner Glidewell, to adopt **Ordinance 2020-19** approving King SSA - correcting a scrivener's error in an adopted Ordinance.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

4. **North Church Street Rezoning - Request to approve by ordinance. Project number REZ20-000003 is being reviewed by Bob Baronti. This is a rezoning application submitted by Travis Dickerson, requesting approval to change the zoning from Conservation Residential 1 unit per 2.5 acres to 2 units per acre or a lesser use with a future land use of Conservation Residential on 4 +/- acres. The project is located from the intersection of U. S. Highway 98 and C. R. 393 North, left on Nursery Road then left on North Church Street and is identified by parcel number(s) 15-2S-20-33160-000-0314.**

Mr. Carpenter briefly discussed the request.

Mr. Travis Dickerson, applicant, said the reasons for his request was to allow for a lot split to enable him to give each of his four children a 3/4 acre lot. The current zoning allows only 20% of the lot to be used and the new zoning would allow 40% to be used. Discussion was held on what could be done to determine that the future use of the land would be for the Dickerson family and not a development.

Motion by Commissioner Nipper, second by Commissioner Nick, to adopt **Ordinance 2020-18** approving North Church Street Rezoning .

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

5. **Boyles ROW Abandonment - Request to approve by resolution. Project number PA20-000002 is being reviewed by Tim Brown. This is a petition for abandonment application submitted by Mark Davis on behalf of Nathan and Crystal Boyles, requesting an abandonment of the eastern 30 feet of the 60 foot 22nd Street right-of-way on 0.19 +/- acres with a future land use of Conservation Residential and a zoning category of Conservation Residential 1:2.5. The project is located at the end of 22nd Street.**

Mr. Carpenter briefly discussed the abandonment request.

Attorney Mark Davis, representing the applicants, submitted photos of the area and discussed the request to abandon 30 feet of the 60 foot right-of-way adjacent to Mr. Boyles property. He said that Mr. Boyles did not object to an easement if the county needed the area for drainage.

Mr. Nathan Boyles, applicant, gave a brief history of his ownership of the property and the layout of the area. Discussion was held on the photos submitted by Attorney Davis.

Commissioner Glidewell voiced concern with abandoning the right-of-way and suggested allowing Mr. Boyles to maintain the area. Mr. Boyles said he preferred the abandonment and would be amenable to restrictions being placed on the property for future utility or stormwater purposes.

Commissioner Nipper voiced concern regarding the abandonment, noted the property was being rented to campers in the manner of an Airbnb and asked if the camping area was in the right-of-way. Mr. Boyles said the campsites were not in the right-of-way and confirmed the rental of the entire property for a single RV.

Mr. Charlie Cotton, Public Works, discussed the current RFQ for a stormwater improvement master plan for Old Town Santa Rosa which includes that area. He did not agree to the abandonment. Discussion was held on the possible uses of the right-of-way.

Mr. Boyles stated that 22nd Street was unopened until sometime around 2003 and said that full stormwater was developed to county standards at that time and he did not think that the county would need their stormwater resources in that right-of-way. Chairman Chapman noted that county stormwater standards have changed since 2003 and that the master plan will determine what will be needed.

Attorney Davis asked that the abandonment be reconsidered after the master plan has been completed. Discussion was held on whether to table the item and the proper advertisement notice. Attorney Noyes said the item could be tabled until the design is complete and to re-advertise for a future board meeting. She said she would work with Attorney Davis and Public Works regarding the maintenance of the area in the meantime and negotiate a right of entry agreement.

Motion by Commissioner Anderson, second by Commissioner Glidewell, to table the Boyles ROW Abandonment.

Commissioner Glidewell asked if this motion included the right to maintain the dam. Attorney Noyes said an agreement would be needed for the maintenance and can be handled at staff level.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

6. **Inlet Dunes Petition for Abandonment - Request to approve by resolution. Project number PA20-000001 is being reviewed by Bob Baronti. This is a petition for abandonment application submitted by Dunlap & Shipman, P.A. on behalf of the Inlet Dunes Homeowners Association, requesting an abandonment of 33 feet of**

Pompano St. in favor of the Inlet Dunes Homeowners Association. The property has a future land use of Residential and a zoning of Residential Preservation. The project is located approximately 0.60 miles south of the intersection of Hwy 98 and S. Orange Street. (Continued from the August 27, 2020 BCC meeting.)

Mr. Carpenter said this is a companion request with Legislative Item 7: S. Orange Street Lots Right-of-Way Abandonment and is linked to Quasi-judicial Item 8: Pompano Street Right-of-Way Extension. A 60 day continuance on all three items is being requested to allow Mr. Keith Ruth, an adjacent property owner, to submit an abandonment application. Commissioner Glidewell asked if there were rules which required the board to grant the continuance request and voiced concern that this has been an ongoing issue. Mr. Carpenter said the board was not required to grant the continuance and announced that an agreement between the parties has not been reached. Discussion continued on whether to grant the continuance and allowing the representatives to speak.

Attorney Robert Kauffman, representing Inlet Dunes Homeowners Association, spoke in support of continuing all three items and said he is prepared to proceed if the continuance is denied. He reported that Mr. Ruth has requested the continuance in order to submit his abandonment application.

Mr. Dean Burgis, Emerald Coast Engineers-representing Inlet Beach Capital Investments, LLC (IBCI), spoke in opposition to the continuance. He said the abandonment issue has been ongoing since 2007.

Attorney Noyes noted that if both abandonment items are continued then the quasi-judicial items would need to be continued as well since it is conditioned upon the action taken with the abandonments.

Attorney David Theriaque, representing the Kidd Family, spoke in support of the continuance to allow Mr. Ruth to submit his abandonment application. He noted the area was referred to as a driveway in the development order application and said that private driveways are not allowable uses for public right-of-ways.

Commissioner Anderson spoke about the board's direction to the parties to work out an agreement which they have failed to do. He questioned if the board had to legally allow the applicant time to apply. Attorney Noyes said it is at the board's discretion whether to continue. Commissioner Anderson continued voicing his concerns regarding the inability of the parties to come to an agreement and that the issue has been ongoing since 2007. He addressed the county's concerns with abandoning right-of-ways which could be used for utilities later.

Commissioner Glidewell said this right-of-way has been dedicated to the public and spoke in opposition to an abandonment.

Mr. Keith Ruth, adjacent property owner-speaking via Zoom, discussed his reasons for joining the abandonment process and said the primary reason is that the easement would come within two feet of his property.

Commissioner Anderson asked to have these three items moved to the end of the agenda and to hear the other quasi-judicial items first.

Discussion was held regarding the possibility of these issues being heard by a new board if continuance is granted. Mr. Carpenter voiced concern that a 30 day continuance would be insufficient.

Motion by Commissioner Glidewell, second by Commissioner Anderson, to proceed with legislative items 6, 7, and quasi-judicial item 8 and to have those items presented following quasi-judicial items 9 - 11.

Commissioner Anderson voiced concern about the longevity of the issues and the inability of the property owners to come to a compromise.

Ms. Claudia Hommel, via the Zoom program, spoke in support of the continuance.

3-2 by the following votes:

Ayes: Commissioner Glidewell, Commissioner Nipper, and
Commissioner Anderson

Nays: Commissioner Chapman and Commissioner Nick

QUASI JUDICIAL ITEMS

The Quasi-Judicial Hearing was called to order and Attorney Sidney Noyes, County Attorney, administered the oath to those intending to speak. There were no objections to the advertisements. There were no requests to submit sworn testimony via the Zoom program. Any comments through Zoom will be considered public comment. She asked for ex parte communications regarding items 9, 10, and 11 to be submitted to the clerk. Ex parte communications relating to quasi-judicial item 8 will be addressed when the item is presented.

Attorney Noyes requested a brief recess. The board concurred.

Recessed at 10:01 a.m. and reconvened at 10:10 a.m.

- 9. Azland Waste Services - Request to approve by final order. Project number MAJ20-000018 is being reviewed by Renee Bradley. This is a major development order application submitted by Jenkins Engineering, Inc. on behalf of Azland Waste Services, LLC, requesting approval to expand the Azland Borrow Pit by adding an additional 177 +/- acres for a total of 330.80 acres with a Future Land Use of Industrial and Extractive Uses and a Zoning District of Extractive Uses. The project is located east of the U.S. Highway 331 South and Rock Hill Road intersection on Ed Brown Field Road and is identified by parcel number(s) 06-1N-18-08000-006-0000 and 06-1N-18-08000-004-0010. Staff found the request to be consistent with the Land Development Code and Comprehensive Plan contingent upon conditions being met as stated in the Staff Report. (Exhibit 1: Staff Report)**

Ms. Rene Bradley, Planning Department, briefly discussed the project.

Mr. Jamie Eubanks, Jenkins Engineering-representing the applicant, was available for questions.

Motion by Commissioner Glidewell, second by Commissioner Nick, to approve by Final Order Azland Waste Services contingent upon conditions being met as stated in the Staff Report.

There were no public comments.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

(Exhibits: Staff Report-1) (Ex Parte: none)

10. **Carbon Meaning Office Building - Request to approve by final order. Project number MAJ20-000013 is being reviewed by Tim Brown. This is a major development order application submitted by Jenkins Engineering, Inc. on behalf of Carbon Meaning, LLC, requesting approval to develop 30,750 square feet of commercial/office space with associated infrastructure on 6.00 ± acres with a future land use of Commercial and a zoning category of General Commercial. The project is located on the north side of U.S. Highway 98 East, west of Serenoa Road and east of M.C. Davis Boulevard, and is identified by parcel number(s) 05-3S-18-16000-001-0070. Staff found the request to be consistent with the Land Development Code and the Comprehensive Plan contingent upon conditions being met as stated in the Staff Report. (Exhibit 1: Staff Report)**

Mr. Tim Brown, Planning and Development, briefly reviewed the request.

Mr. Eubanks, representing the applicant, was available for questions.

Motion by Commissioner Anderson, second by Commissioner Glidewell, to approve by final order Carbon Meaning Office Building contingent upon conditions being met as stated in the Staff Report.

There were no public comments.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

(Exhibits: Staff Report-1) (Ex Parte: None)

11. **395 Subdivision (Palm Cove) - Request to approve by final plat. Project number PLA19-000025 is being reviewed by Bob Baronti. This is a plat application submitted by Timothy D. Bowden, P.E., PSM on behalf Lakewood Development, LLC, requesting approval to subdivide the parcel of land into six single-family lots on 3.49 +/- acres. The property has a future land use of Conservation Residential and a zoning of Conservation Residential 2/1. The project is at 467 County Highway 395 N and is identified by parcel number(s) 35-2S-19-24000-014-0000. Staff found the request to be consistent with the Land Development Code and the Comprehensive Plan contingent upon conditions being met as stated in the Staff Report. (Exhibit 1: Staff Report)**

Mr. Carpenter briefly discussed the request.

Motion by Commissioner Anderson, second by Commissioner Nick, to approve by final plat 395 Subdivision (Palm Cove) contingent upon conditions being met as stated in the Staff Report.

There were no public comments.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

(Exhibits: Staff Report-1) (Ex Parte: none)

Legislative Item 6 Inlet Dunes Petition for Abandonment (approved on motion to proceed and to be heard following quasi-judicial items 9, 10, and 11) - See description of request above.

Mr. Carpenter briefly reviewed the request.

Attorney Robert Kauffman, representing Inlet Dunes Homeowners Association, announced that two witnesses were present to speak regarding quasi-judicial item 8. Chairman Chapman stated the witnesses would be heard when that item is presented. Attorney Kauffman continued his presentation of the abandonment request. He said a meeting of all the stakeholders was held but a resolution was not found. He discussed possible options which would resolve the issues without opening all 66 feet of the right-of-way and said the preservation of utility easements within a 30 foot easement would be included as a condition to an easement agreement. Attorney Kauffman noted that Inlet Dunes HOA has maintained the right-of-way for decades and have used the area as a drive and dumpster area without objection; they wish to continue the maintenance. He discussed the 1955 patent deed on the right-of-way which has been in place since the subdivision was platted and that all the properties are accessible from public roadways. He talked about how the "lower order road" requirement does not apply to this right-of-way since it has not been developed and said a private drive is not a public use. He believed the abandonment meets all criteria. Attorney Kauffman discussed the

effects an open right-of-way would have on Mr. Ruth's property and noted a prior request to open the right-of-way was denied. He spoke against opening the 66 foot right-of-way and supported the abandonment.

The following motion was made to open discussion.

Motion by Commissioner Glidewell, second by Commissioner Anderson, to deny the Inlet Dunes Petition for Abandonment.

Attorney David Theriaque, representing the Kidd family, spoke in favor of abandoning the right-of-way. He discussed how the Kidd family has worked to find a solution and to have a shared cut if IBCI's request for a curb cut was denied by FDOT. He talked about the actions taken by IBCI to clear the right-of-way without the county's permission. He discussed patent deeds and said the federal government deems patent deeds only for public roadways and utilities; not for parking or pedestrian paths.

A brief recess was held to allow Commissioner Glidewell to converse with counsel.

The meeting reconvened and Attorney Theriaque continued his presentation. He asked that if the board chose to abandon the right-of-way that the southern 7 feet be left for utilities.

Discussion was held on appropriate uses for the right-of-way and legal ownership of the area.

Commissioner Nipper asked if the abandonment is not approved would the dumpster and gate utilized by Inlet Dunes be addressed. Attorney Noyes said that historically Public Works allows those uses until the area is needed. Attorney Kauffman clarified that Inlet Dunes would remove the gate and dumpster if the abandonment is denied.

Mr. Dean Burgis addressed Attorney Kauffman and Attorney Theriaque's comments. He said there is a public safety issue in using a curb cut onto U.S. Highway 98. He said development of roads in government easements have been done before by private entities and listed roads developed on behalf of the county.

Mr. Mickey Whitaker submitted 2008 aerials of the right-of-way and said it was used as a gravel access at that time. He discussed public access to certain roads.

Mr. Carpenter responded to Mr. Burgis' comment regarding the development of right-of-way by private entities and said this was only done under the authority of the board under a development order. The easements were developed according to county standards.

The following individuals spoke, via Zoom, in support of the abandonment: Mr. Toby Kidd, Ms. Tamara Anderson, and Mr. Lance Moody.

The following individuals spoke, via Zoom, in opposition to the abandonment and the right-of-way extension: Mr. Joey Steffen and Ms. Mala Steffen.

Commissioner Nipper asked how a denial of the abandonment would affect the county. Chairman Chapman said the county would retain control over the right-of-way. Further discussion was held regarding the dumpster and gate in the right-of-way.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

7. **S. Orange Street Lots Right-of-Way Abandonment - Request to approve by resolution. Project number PA19-000003 is being reviewed by Bob Baronti. This is a petition for abandonment submitted by Earl Lynn Kidd III & David A. Theriaque on behalf of Earl Lynn Kidd III, Lucy Melinda Anderson, Hunter C. Kidd, Meagan K. Phillips, and Toby A. W. Kidd, requesting Walton County to abandon the 33' right-of-way for roadway and public utility that extends along the southern property line of two lots. The properties have a Future Land Use of Residential and a Zoning designation of Neighborhood Infill, are located at the southeast corner of the intersection of US Highway 98 and S. Orange Street, and are identified by the parcel numbers 36-3S-18-16100-000-1460 and 36-3S-18-16100-000-1470. (Continued from the August 27, 2020 BCC meeting.)**

Mr. Carpenter briefly discussed the request and said the Planning Commission recommended denial.

Attorney Theriaque briefly discussed the request and referenced his remarks on Inlet Dunes.

Motion by Commissioner Glidewell, second by Commissioner Nick, to deny the S. Orange Street Lots Right-of-Way Abandonment.

The following individuals spoke, via zoom, in support of the abandonment: Mr. Cappy Kidd, Mr. Mark Rothe, Ms. Claudia Hommel, and Mr. Hunter Kidd.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

The meeting recessed at 11:36 a.m. and reconvened at 12:00 p.m.

8. **Pompano Street Right of Way Extension - Request to approve by final order. Project MAJ20-000021 is being reviewed by Stephen Schoen. This is a major development application submitted by Emerald Coast Associates on behalf of Inlet Beach Capital Investments, LLC requesting to install a proposed driveway for access to properties adjoining the Right of Way. The property has a Future**

Land Use of Residential and a Zoning designation of Neighborhood Infill. The project site is located on the east side of the Pompano Street and South Orange Street intersection and is identified by parcel number 36-3S-18-16100-000-1733. Staff found the request to be consistent with the Land Development Code and Comprehensive Plan contingent upon conditions being met as stated in the Staff Report. (Continued from the August 27, 2020 BCC meeting.) (Exhibit 1: Staff Report)

Attorney Noyes asked that all ex parte on this item be submitted to the clerk. She stated this is a quasi-judicial item with legislative aspects which gives the board discretion in the decision making. A legislative determination must be made whether to open the right-of-way prior to deciding on the quasi-judicial item. If the right-of-way is opened, the decision on the quasi-judicial item must be made based on the consistency with the Land Development Code and Comprehensive Plan. Chairman Chapman asked if the board should make the legislative decision to open the right-of-way prior to hearing the quasi-judicial request. Attorney Noyes recommended hearing the project first.

Mr. Carpenter voiced his agreement with Attorney Noyes' comments and briefly discussed the request.

Attorney Noyes administered the oath to those intending to speak on this item.

Mr. Steven Schoen, Planning and Development, discussed the project. Chairman Chapman asked about the health department's comments regarding to the septic tank on the property and the impact on the system if a driveway is built. Mr. Schoen deferred the question to the applicant.

Mr. Dean Burgis, Emerald Coast Associates-representing the applicant, spoke about the benefits of having an access from Orange Street for all surrounding property owners. He said the retention areas were shallow and that the applicant would be willing to plant vegetation around the retention pond to screen it from Mr. Ruth's property. Commissioner Glidewell asked the purpose of the southern drainage easements. Mr. Burgis discussed the small closed basin in the area and reported run off from Mala Beach and Kidd property collects in the localized depression. The retention areas of the request are larger to accommodate the runoff. Commissioner Anderson asked that the health department comments be addressed. Mr. Burgis said the septic tank will need to be evaluated to determine if it is in use. He thought it may have been used by a house previously located on Mala Beach, but it has not been confirmed. This issue will be resolved with the health department before beginning construction. A brief discussion was held regarding the location of the septic tank.

Attorney David Theriaque, representing the Kidd Family, spoke in opposition to the right-of-way extension and stated that the applicant has not submitted a request to FDOT for a curb cut to the property. He questioned which parties would be for maintenance and who would liable for accidents along the roadway.

Attorney Robert Kauffman, representing Inlet Dunes Homeowners Association, spoke in opposition to the right-of-way extension. He stated he had two witnesses to speak on behalf of Inlet Dunes Homeowners.

Ms. Melissa Ward, Dunlap and Shipman, presented testimony on behalf of Inlet Dunes Homeowners Association pertaining the FDOT position on the curb cut. She discussed a conversation she had with Mr. Rusty Williams, FDOT, regarding the policy on curb cuts. She was informed that FDOT would not require an applicant to petition the county board to open an unimproved right-of-way to provide access; the option to open the right-of-way lies with the county. If the right-of-way was improved it would be considered the lesser road access and would be the recommended access.

Attorney Kauffman discussed Florida Statute 335.181 which legislates the access to state roadways. He said if the board approved the opening of the right-of-way that only 50 feet be allowed to be used for the driveway. He submitted for the record drawings of a proposed 50 foot driveway which were commissioned by the homeowners association. **(Exhibit 2-Respondent)**

Mr. Curtis Smith, Nautilus Engineer, presented testimony on behalf of Inlet Dunes Homeowners Association pertaining to a 50 foot driveway. He described the proposed plan that includes a 20 foot roadway which would lessen the impacts to the right-of-way, an ex-filtration stormwater system, an interlocking paver system, a 15 foot right-of-way on each side of the road, and a turn-around for South Walton Fire Department. Attorney Kauffman questioned if the applicant's current plan utilizes his property for the turn-around. Mr. Smith confirmed it did not. Mr. Smith replied to Attorney Kauffman's question regarding the stormwater pond near the Ruth property by saying the county requires a 5 foot setback between foundations and stormwater retention; the applicant's 2 foot setback from the retention pond does not meet requirements.

Mr. Burgis reviewed the drawings submitted by Attorney Kauffman and said this was addressed during the stakeholders meeting. He discussed the financial burdens the plan would place on his client. Chairman Chapman asked Mr. Burgis to complete his comments during rebuttal.

Attorney Theriaque questioned Mr. Smith on the curb cuts to U.S. Highway 98. Mr. Smith reported that FDOT would allow a curb cut if there were no other existing ingress/egress options. Attorney Theriaque submitted into the record a memo and a hard copy of his PowerPoint presentation. **(Exhibit 3-Respondent)**

Attorney Kauffman completed his presentation and requested a denial of the application.

Commissioner Anderson asked that the county's traffic engineer be allowed to speak. Chairman Chapman said that comments via the Zoom program would be taken first.

The following individuals spoke, via Zoom, in opposition to the right-of-way extension: Mr. Cappy Kidd, Mr. Joey Steffen, Mr. Keith Ruth, and Ms. Claudia Hommel.

Mr. Chance Powell, Walton County Traffic Engineer, said, in his opinion, the safest access to the applicant's property would be through the right-of-way and that it would provide greater safety to the general public. Discussion continued on the different accesses for all the properties. Commissioner Glidewell questioned why the cul-de-sac/turn-around was not being built on the applicant's property. Mr. Powell deferred the question to the applicant. Commissioner Glidewell asked if a median cut was considered on U.S. Highway 98. Mr. Powell said there was one at Orange Street. Discussion was held on the right-in/right-out restriction from U.S. Highway 98. Commissioner Anderson asked what easement width would be needed if the board approved to open the right-of-way for access. Mr. Powell replied the Land Development Code allows acceptance for county maintenance at 50 feet or greater. Discussion ensued on the need for the roadway to meet county standard since it is in the county right-of-way.

Mr. Burgis clarified that the access would be available to the Kidd property when they chose to develop the area. Mr. Powell discussed what accesses would be required if the western or eastern properties were developed.

Mr. Burgis said the development would benefit the Kidd Family as much as Inlet Beach Capital and responded to comments made by Attorneys Theriaque and Kauffman. He said the applicant would agree to meet the county standards and would make accommodations to locate the cul-de-sac on the applicant's property.

Chairman Chapman asked the board's input regarding the need for a road in the right-of-way. Commissioner Nipper said she did not see a need for the road since there has been no development order application for a house, only for a driveway. Attorney Noyes said if the board decides against a road it does not mean they are abandoning their right to the right-of-way.

Motion by Commissioner Nipper, second by Commissioner Glidewell, to deny the construction of a road in the right-of-way at this time.

The board and Mr. Powell discussed the connection to the property from U.S. Highway 98, the required distance between curb cuts, effects a road would have in the area, and the need to have the right-of-way available for future use.

5-0 by the following votes:

Ayes: Commissioner Chapman, Commissioner Glidewell,
Commissioner Nipper, Commissioner Nick, and
Commissioner Anderson

Motion by Commissioner Nipper, second by Commissioner Glidewell, to deny the Pompano Street Right-of- Way Extension.

5-0 by the following votes:

Ayes: Commissioner Glidewell, Commissioner Nipper,
Commissioner Chapman, Commissioner Nick, and
Commissioner Anderson

**(Exhibits: Staff Report-1; Respondent-2 Kauffman submission; Respondent 3
Theriaque submission;) (Ex Parte: Chapman, Nick, Glidewell, Nipper,
Anderson)**

ADJOURN

There being no further discussion, the meeting was adjourned at 1:12 p.m.



W. N. (Bill) Chapman, Chairman



Attest: Alex Alford, Clerk of Court and County Comptroller