

SEPTEMBER 15, 2008 – SPECIAL MEETING

The Board of County Commissioners, Walton County, Florida, held a Special Hearing on September 15, 2008 at 6:05p.m., at the South Walton Courthouse Annex to discuss Jolly Bay PUD Master Plan and Phase I.

The following Board members were present: Commissioner Larry Jones, Chair; Commissioner Sara Comander, Vice-Chair; Commissioner Scott Brannon; Commissioner Cindy Meadows; and Commissioner Kenneth Pridgen. Attorney Mike Burke, County Attorney, was also present.

Chairman Jones called the meeting to order.

Attorney Mike Burke, County Attorney, administered the oath to those intending on speaking.

Chairman Jones reviewed the procedure of the hearing.

Attorney Dana Matthews, Representative of Jolly Bay, LLC, distributed several exhibits and briefly described each. He requested approval for Mr. Chance Powell, Civil Engineer, and Mr. Faisal Syed, Architect, to continue their presentations. The Board accepted the testimonies of Mr. Powell and Mr. Syed as expert witnesses. (**Exhibits 2-13**)

Commissioner Meadows clarified for the record that she had not met with Attorney Matthews as stated in the Staff Report-Applicant Exhibit 4. Attorney Matthews confirmed that they had not met.

Mr. Richard Adams asked if the Bear Creek PUD, as referenced in Exhibit 3, was located off of Fluffy Landing. He objected to the relevance of the submission of the exhibit. He stated that the development had not been built. Attorney Matthews reported

that the location map shows the development on the corner of County Road 3280 and Fluffy Landing Road.

Mr. Chance Powell, Civil Engineer, proceeded with his testimony by discussing the areas that would be altered with the use of cut and fill. He was then questioned by Attorney Matthews. Mr. Powell stated the total fill would be 4,367 cubic yards and area excavated would be 4,393 cubic yards. This provides an additional 26 cubic yards of storage in the flood zone. Ms. Pat Blackshear, Growth Management Director, stated that the Comprehensive Plan Policy must be met regarding compensatory storage. She asked if the engineering group has reviewed the proposal for cut and fill. Mr. Powell stated that the goal was not to exceed the one foot average fill over the entire site. He stated that the Fill Map was submitted with the last Technical Review Committee revision. He discussed the purpose and placement of the retaining walls which will be located inside the 25 foot wetland buffer. He used county LIDAR maps and a Master Plan Drawing to show the contour of the area and where flooding would occur. Commissioner Meadows questioned if the entire area would be raised or just the building site. Mr. Powell stated that it would only be the building sites. He stated that the building area would not be affected by Categories 1 - 4 storm surges and that roads would not flooded. **(Exhibits 14-16)**

Mr. Powell discussed the visual affects of the development on the surrounding area. Commissioner Meadows questioned how the lighting from the building would affect the neighbors. Mr. Powell stated that it would be determined by the type of lighting used on the building. Commissioner Meadows asked how many trees would be removed from the land. Mr. Powell stated that there would be complete tree removal from the

building site. He said that the road frontage would meet landscaping requirements and that the trees around the site would remain. (**Exhibit 17**)

Mr. Powell addressed the traffic and roadway issues and was questioned by Attorney Matthews. He stated that he measured Jolly Bay Road in several areas and found the pavement is 20 feet wide and the maintained right of way is between 40 to 50 feet wide. He discussed the comparisons of Jolly Bay Road to County Road 3280 and Fluffy Landing. Commissioner Meadows asked if a map was available that shows the different widths of Jolly Bay Road. Mr. Powell said that there are none. Commissioner Comander asked that Staff provide the information. Mr. George Newman, County Engineer, reviewed the right-of-way documentation. He stated that some areas do not have deeded right-of-way. He said that according to the Highway Capacity Manual a Level Service B would be required. The County has a requirement of a 50 foot right-of-way and is included in the stipulation of the development order. Commissioner Meadows questioned if the right-of-way stipulation was for the entire portion of Jolly Bay Road. Mr. Newman stated that it would be to the east property boundary and a small section down to Shady Lane. He said the property west to Highway 331 not owned by the development have deeds that show a 50 foot right-of-way. Commissioner Meadows asked that right-of-way information be provided with the application. Commissioner Brannon asked if the utility easements were included. Mr. Powell stated that it was. Mr. Powell stated that Jolly Bay Road could be widened by the developers to 24 foot. Commissioner Meadows asked if water and sewer was available. Mr. Powell stated that six inch lines for both water and sewer were available. Commissioner Meadows referenced the Sustainable Emerald Coast Final Report which mentions urban sprawl.

She asked if there was a map available which shows the development's affect on a regional context. Mr. Powell stated that there was not one available. (**Exhibit 18**)

Mr. Adams presented questions regarding the distance measured for right-of-way. Mr. Powell stated that the measurements were approximately eight to ten feet from pavement edge. Mr. Adams raised questions regarding the natural drainage ditches and the berms installed by the utility companies, and the effects the two would have on flooding. Mr. Powell stated that the areas would not be altered and that a bridge would be erected to keep the natural ditches in tact. Discussion continued on the flood zones on the property.

Mr. Brian Kellenberger read portions of the Comprehensive Plan Policy and the Land Development Code. He questioned whether the development was in Flood Zone A or AE. Mr. Powell stated that the development is located outside the flood zones. Mr. Kellenberger asked if the development met the provisions for the clustering and transferring of density as stated in the Land Development Code. Mr. Powell stated that it did.

Mr. Murray Balcom asked if the building would be seen from Highway 331 South. Mr. Powell stated that it would. Mr. Balcom stated that it was irrelevant to point out that the project cannot be seen from Highway 331 North when it can be seen from Highway 331 South.

Ms. Martha Stanley voiced concern regarding the height of the building and what could be seen from the building. She asked Mr. Powell whose privacy was being compromised. Mr. Powell replied that if a person could not see the building then people in the building could not see the person. Commissioner Meadows asked about the

location of the restaurant in Phase II. Mr. Powell said that the location would be at the top of the parking deck. Mr. Syed stated that the restaurant would be inside the building.

Mr. Douglas Pitts questioned elevation of the project and where the flood waters would be retained to keep it from backing up into other areas. Mr. Powell stated that the water would go to the wetlands. Mr. Pitts asked if there was an alternative route for incoming traffic. Mr. Powell stated that Jolly Bay Road was chose because of its access to Highway 331 and an alternative has not been considered.

Mr. Faisal Sayed, Architect, addressed questions raised regarding fire safety and protection. In response to Attorney Matthew's questioning, he stated that all of the buildings in Jolly Bay will have fire suppression systems, life safety provisions and will meet the Florida Building Code. He briefly discussed the safety features that would be installed into the buildings. Commissioner Meadows asked if the Freeport Fire Department (FFD) would service this particular building. Mr. Sayed stated it would. Commissioner Meadows asked how the FFD could fight a multi story building. Mr. Sayed stated that high-rise buildings are designed with fire fighting features. Commissioner Meadows asked how water pressure for Phase II would be supplied. Mr. Powell stated that options were available, one being a water tower; two, use of an existing 12 inch water main; and three, a large stand pipe throughout the height of the building. Commissioner Meadows asked what the timing for Phase II would be. Mr. Powell stated that Phase II is based on market demand and is a few years away from completion. He stated that development order approval was being sought for Phase I. Commissioner Meadows voiced concerns that there is not a time frame tied to the PUD. She felt that the market for a high-rise condo was non-existent for this section of the

county and was unsure as to when it would be. Commissioner Meadows asked what the total cost for the entire project. Mr. Powell did not know the amount. Commissioner Meadows asked if the development could be sold to other developers. Attorney Matthews stated that it could be sold but that there were no plans to sell. Commissioner Meadows asked if a Marketing Analysis had been prepared. Attorney Matthews stated that it had not been.

Mr. Ted Stanley asked what the distance was between the FFD and the project. Mr. Sayed did not know the distance. Mr. Stanley asked if Regional Utilities had been contacted regarding the water main on Highway 331. Mr. Powell stated that it had been abandoned and was owned by the City of Freeport.

Mr. Balcom asked how much area would be used for the RV site. Mr. Powell stated approximately seven acres would be utilized.

Ms. Millie Brantley asked if the project would still be considered rural village if only the commercial phase was built. Mr. Powell stated that an all commercial project could be built as long it does not exceed the 5% designated rural village.

Mr. David Kramer asked what the total number of residential units in all phases of the PUD was. Attorney Matthews stated that there were 121 residential units as permitted by Category 73; 48 Land Bank; and 20 unit Bed and Breakfast. Mr. Kramer asked for the approximate total of square footage of living space per unit. Mr. Sayed did not have that information. Mr. Kramer asked for the total square footage of the parking garage. Mr. Sayed stated that there were enough spaces to accommodate the number of units. Mr. Kramer stated that he wanted to know what the total square footage of the living spaces, garage, commercial spaces and the total impervious surface being used, not to include

roads. Attorney Matthews stated that it was not to that stage yet. The Staff Report says 12.5% impervious space is required. Mr. Powell stated that it was 3.04 % over the total build out allowed. **(Exhibits 20, 21)**

The meeting recessed at 7:50 p.m. and reconvened at 8:16 p.m.

Discussion began regarding the percentage of the land to be used for commercial. Mr. Adams asked if a shopping mall could be placed on the property. Mr. Powell stated that the land use district where this parcel is located is approximately 4,600 acres. He stated that 5% of that can be used as commercial. Chairman Jones stated that the commercial used has to be what is allowable in that land use category.

Ms. Michelle Pitts asked who would pay for tapping into the water main. Mr. Powell stated that the developer would be responsible.

Mr. Balcom questioned how much of the 4,600 acres would be commercial. Mr. Powell stated approximately 238 acres. **(Exhibit 19)**

Commissioner Meadows asked where the land bank units were identified. Attorney Matthews stated that it was in the PUD application. He stated that there are 121 permissible units for this site; 73 condo units are proposed in the subsequent phase. A part of the PUD application is to vest an additional 48 that would have to come back to staff. He said that the amount is not in the Staff Report and was stated as a correction during the last meeting.

Ms. Blackshear said that there would be limitations on the site plan if the wetlands were affected.

Mr. Joe Poole, Traffic Engineer, and accepted as expert witness, presented the Transportation Impact Analysis which was submitted based on Phase I and II. The

recommendation for Phase I was \$121,670 Proportionate Fair Share which will also go toward the FDOT improvements. Each phase will be reanalyzed and a 72 hour bi-directional count would be conducted for Jolly Bay Road. He said that the Two-Way Two-Lane Highway Segment Worksheet showed that Jolly Bay Road would operate at a Level Service B and based on 10 foot lanes and 4 foot shoulders. To show highest use, 10% trucks and 90% recreational vehicles was used as a worst case scenario. With the lower speed limits, this makes Jolly Bay Road a good operating and safe roadway. Ms. Blackshear asked if vehicles in tow were considered in the turning length. Mr. Poole stated that they were not. Mr. Adams asked if 40 feet, 30,000 pound luxury RV's were considered in the analysis. Mr. Poole said that weight was not counted but would be required to calculate the maintenance of the roadway and road construction. Mr. Pitts asked if the FDOT had approved a four-lane roadway. Mr. Poole stated that it has been approved but is not funded. Mr. Pitts asked if the intersection of Jolly Bay and Highway 331 could handle the increased RV traffic. Mr. Poole stated that he made no statement regarding that issue. Mr. Pitts asked if RV's stopping to turn would be a traffic hazard. Mr. Poole said it would be used as it is currently. Mr. Pitts feels that the public is owed a safe roadway.

Attorney Matthews asked Mr. Poole to clarify the grading of the roadways. Mr. Poole stated that A is considered the best for use and F would be the worst. The road was graded as a Level B and would be suitable for this project. Chairman Jones asked if the safe roadway opinion could be expanded to the Highway 331 intersection. Mr. Poole stated that it would for Phase I. Attorney Matthews asked if the analysis meets the LDC and Comp Plan requirements. Mr. Poole stated that it did. Mr. Stanley asked if the

developer would upgrade the road to handle the weight of the RV's. Mr. Poole replied in the negative.

Mr. John Thompson stated that he had rented an RV and was unable to turn left on Jolly Bay. Commissioner Meadows asked how much retail square footage was used in the calculations. Mr. Poole stated that 23,500 square feet of retail was used and includes all the restaurants. **(Exhibits 22, 23, 24)**

Mr. Mike Dentzau, Environmental Consultant, and accepted as an expert witness, said that he had been familiar with property for approximately 10 years. He performed a preliminary environmental assessment approximately two years ago. The Walton County Environmental Assessment was completed and submitted to the engineer of record. The uplands had no protected communities and no protected animal or plant species listed. There were no archeological issues. A recommendation was made to use a bridge to access Phase I so that minimal impacts would be made to the wetlands. He reported that there are some rare plants that are State listed plants only and can be relocated by the property owner. The plants were found outside the impact area and within the 25 foot upland buffer. Mr. Dentzau discussed the height of the trees located on the property.

Commissioner Meadows asked what a round-tailed muskrat was. Mr. Dentzau stated that it had been identified as a rare species with no state or federal listing. Mr. Adams asked if the round-tailed muskrat was listed on the Species of Greatest Conservation Need List. Mr. Dentzau stated that it is not a protected species.

Attorney Matthews asked if the proposed development in the PUD met the environmental requirements of the LDC and Comp Plan. Mr. Dentzau stated yes. Mr. Adams asked if a permit had been obtained from the DEP for the bridge. Mr. Dentzau

stated yes. Mr. Adams stated that information was missing from the permit application that was submitted and that some information was incorrect. Mr. Dentzau stated that the minor errors did not affect the processing of the application, review of the environmental impacts nor the scope of the environmental impacts. Attorney Matthews stated that both sides were aware of the misinformation. **(Exhibit-Petitioner 25, 26; Exhibit-Respondent 27)**

Mr. Buddy Page, Professional Growth Management Services, and accepted as expert witness, stated that he performed a compatibility analysis although it was not required. The study found that the development would meet the criteria of the LDC and the Comp Plan for the area in which it would be located. He briefly discussed the lack of definitions in the LDC and possible changes to the code. Discussion ensued regarding the interpretation of the code by the Planning Staff.

Attorney Matthews questioned Mr. Page on the definition of rural and urban. Mr. Page said that urban would apply to developments that include 75% impervious surface; with concrete and asphalt on a percentage of acreage. A 5% commercial determination would also add to the defining of the development as urban. Other factors would include a determination by the US Census Bureau. A discussion regarding the definition of this project as urban residential, urban sprawl, and rural village continued.

Mr. Balcom stated that according to the definition of urban found in the Land Use Code wetlands are not included in an urban area. He asked Mr. Page how this property could be urban instead of rural since the property contains 47 acres of wetlands. Mr. Page stated that the area has reasonable compact conditions in regards to the wetlands. Mr.

Balcom asked that Mr. Page's testimony be struck since it did not coincide with the definition and not the category being requested.

Motion by Commissioner Meadows, second by Commissioner Pridgen, to recess the meeting to September 22, 2008 at 5:00 p.m. or soon thereafter at the South Walton Annex. Ayes 5, Nays 0. Jones Aye, Comander Aye, Brannon Aye, Meadows Aye, Pridgen Aye.

There being no further business the meeting was adjourned at 9:35 p.m.

APPROVED _____
Larry Jones, Chairman

ATTEST _____
Martha Ingle, Clerk of Courts