**PLANNING COMMISSION**

**MINUTES**

**FEBRUARY 09, 2017**

**5:01 P.M.**

The regular meeting of the Okaloosa County Planning Commission was held Thursday, January 12, 2017, 5:01p.m., 208 North Partin Dr, Niceville Board Room, Niceville, FL. Board members in attendance were Larry Patrick, John Collins, and Jeremy Stewart.

Eglin Representative Jeff Fanto was in attendance.

Growth Management Staff in attendance were Elliot Kampert, Director, and Leslie Adams, Administrative Assistant II, recording secretary.

County Attorney in attendance was Kerry Parsons.

Speaker recognition forms were submitted by persons wishing to speak as follows:

Agenda Item 2: Mark Siner, 112 Truxton Ave., FWB, FL 32547---Applicant Engineer

Agenda Item 2: Bob Naylor, 312 Cloverdale Blvd., FWB, FL 32547---Opponent

Agenda Item 2: Adrian Lincoln, 316 Cloverdale Blvd, FWB, FL 32547---Other

Agenda Item 3: Dana Matthews, 4475 Legendary Dr., Destin, FL 32541---Applicants Attorney

Agenda Item 3: Tracy Jernigan, 29 Scenic Gulf Dr., Miramar Beach, FL 32550---Applicants Engineer

Agenda Item 3: Matthew R. Parker, PE. 79 Scenic Gulf Dr., Miramar Beach, FL 32459---Applicants Project Engineer

Agenda Item 3: Patrick Hodges, PO Box 651102, Rosemary Beach, FL 32641---Applicants Project Landscape Architect

Agenda Item 3: Margaret Vining, 1728 Wren Way, Niceville, FL 32578---Opponent

Agenda Item 3: Charles Stoner, 4220 Lost Horse Circle, Niceville, FL 32578---Opponent

1. **CALL TO ORDER**

Chairman Patrick called the meeting to order at 5:05 PM.

1. **ROLL CALL**

Leslie Adams conducted roll call.

1. **APPROVAL OF MINUTES OF DECEMBER 08, 2016**

The Chairman called for a motion to approve the minutes.

***Motion to approve the minutes of January 12, 2017made by Jeremy Stewart, second by John Collins--- 3 ayes. Motion passes.***

1. **OPEN TO PUBLIC (FOR ANY ITEMS NOT QAUSI JUDICIAL ON THIS AGENDA)**

None

1. **ANNOUNCEMENTS**

None

1. **ADDITIONS, DELETIONS, OR CHANGES TO THE AGENDA**

Mr. Kampert advised the Board that he was notified by the applicant for Item J, Agenda Item 1. Old Business for the Watt’s proposal has been withdrawn by the applicant.

1. **ACCEPTANCE OF THE AGENDA**

***Motion by to approve the agenda with the exception of the removal of Agenda item 1, made by Jeremy Stewart, second by John Collins--- 3ayes. Motion Passes.***

1. **OATH TAKING**

Leslie Adams administered the oath for all speakers.

1. **DISCLOSURES**

Leslie Adams read the disclosure statements and all Commissioners advised no to all questions.

1. **OLD BUSINESS**

**AGENDA ITEM 1:** Consideration of a request changing the use of land submitted by Sarah Watts relating to property located at 2301 West James Lee Boulevard, Crestview. The request is to change the Comprehensive Plan Future Land Use Map (FLUM) designation for the property from **Low Density Residential (LDR)** to **Mixed Use (MU)**. If the FLUM amendment is approved, request to rezone the property from **Residential – 1 (R-1)** district to **Mixed Use (MU)** district. Property contains 3.19 acres, more or less.

This item withdrawn.

1. **NEW BUSINESS**
2. **Applications for development review**

None

1. **Public Hearings**

**AGENDA ITEM 2**: Consideration of a request changing the use of land submitted by Hazel Light Trust relating to property located at 1815 Hurlburt Road, Fort Walton Beach, FL. The request is to change the Comprehensive Plan Future Land Use Map (FLUM) designation for the property from **Suburban Residential (SR)** to **Mixed Use (MU)**. If the FLUM amendment is approved, request to rezone the property from **Suburban Residential (SR)** district to **Mixed Use (MU)** district. Property contains 1.41 acres, more or less. (*This item is quasi-judicial*)

Mr. Kampert read into record agenda item 2.

Chairman Patrick called for Mr. Mark Siner.

Commissioner Collins inquired if staff was looking at the entire parcel or the entire Mixed Use development on the street.

Mr. Kampert advised staff looked at the Mixed Use on the parcel and the immediate adjacent Mixed Use and there was a continuous Mixed Use parcel.

Discussion ensued.

Mark Siner addressed the Board and advised he did not know that he was going to get a recommendation for denial from Staff and this was the first time he was hearing of the recommendation. Mr. Siner advised he was trying to determine the interpretation of the code relevant to Mixed Use and trying to enforce the fifty percent on a very specific site is new to him and he has done a lot of developments. Mr. Siner advised he was asking for a rezoning to Mixed Use and the intended purpose of the mixed use is to do an RV Park and that doesn’t mean that is the only thing they can do, and unless there is a criteria of what they are proposing in Mixed Use he doesn’t see why they can’t change to Mixed Use and then allow them the opportunity to put something on it that meets the Mixed Use.

Discussion Ensued.

Mr. Kampert advised that he believed that staff always tries to look at the Mixed Use as part of the whole area and adjacent which is mostly Commercial, but he felt there was room for discussion and it would be up to the Board if they would like to bring this back at the next meeting after there has been a chance to look at and discuss it further and even compare it to prior decisions.

Discussion ensued concerning Mixed Use.

Chairman Patrick advised he would welcome the idea of tabling this item and discussing it further and inquired if Mr. Siner’s Client was willing to delay this further.

Mr. Siner advised yes.

Discussion ensued.

Commissioner Collins inquired if there was any other land uses to support an RV park other than C-3.

Mr. Kampert advised when you go through the Land Development Code RV Parks are specific to C-3.

Discussion ensued.

Chairman Patrick called for Mr. Naylor.

Mr. Naylor advised the Board that he doesn’t think they need to grow with all the residential around the property and he doesn’t think they need any escalation in density and it affects his property value.

Chairman Patrick inquired if his concern was about any business or the Mixed Use with the C-3 allowance can be pretty extensive types of commercial use.

Discussion ensued.

Mr. Naylor advised he was against this and didn’t want something that wasn’t compatible with his property. Mr. Naylor advised that the property used to be an old recreation park.

Chairman Patrick inquired if it used to be an old RV park.

Mr. Naylor advised yes years ago, and there are still unfilled in septic tanks covered over with ground.

Chairman Patrick inquired if an RV Park was objectionable to Mr. Naylor.

Mr. Naylor advised he didn’t know what kind of things will be allowable in an RV Park.

Discussion ensued.

Chairman Patrick called for Mr. Adrian Lincoln.

Mr. Lincoln advised he wasn’t sure how he felt about what was happening to the property and was just hearing of the RV Park.

Chairman Patrick advised that the RV Park was a proposed use, but they were not here to approve an RV Park they were there to approve or disapprove a designation that allows that type of usage and the question is if this use will go further than they want in the allowed uses.

Mr. Lincoln advised he was concerned about what could go in with the Mixed Use.

Discussion ensued.

Chairman Patrick called for Mark Siner to speak.

Mr. Siner advised the Board he would like them to give the opportunity to discuss this and bring it back in front of them.

Discussion ensued.

Mr. Kampert advised he would like the record to reflect the item was table to the next meeting.

Chairman Patrick advised the needed a motion.

***Motion to table agenda item 2 till time certain the next meeting made by Jeremy Stewart and second by John Collins. 3 ayes ---Motion Passes.***

**AGENDA ITEM 3:** Consideration of a petition challenging the issuance of a development order for Fate’s Landing, a proposed 21 lot residential subdivision as submitted by JP Engineering on behalf of the applicant, David R. Wise, LLC.  The property is zoned Mixed Use – 1 (MU 1) and the Future Land Use Map designation is Mixed Use – 1 (MU 1).  The property is located off Bay Drive and Wren Way in Bluewater Bay. The development site contains 10.28 acres, more or less, as shown on the map in this ad notice.  Petition is filed pursuant to Section 1.11.08, “Development Order Hearing” of the Land Development Code. (*This item is quasi-judicial*)

Chairman Patrick read into record the procedure for agenda item 3.

Attorney Parsons advised the Chairman that the petitioner was not at the meeting.

Ms. Margaret Vining spoke up from the audience and advised she was there to speak.

Chairman Patrick advised Mr. Thaddeus Wallace was the petitioner for this item.

Ms. Vining advised Mr. Wallace was out of town and his flight was not going to get here in time for the meeting.

Attorney Parsons advised the Chairman it would be his determination whether or not Mr. Wallace gave Ms. Vining permission to speak and Mr. Wallace did carry the burden on this.

Chairman Patrick asked Ms. Vining if she was given permission to speak by Mr. Wallace.

Ms. Vining advised yes that Mr. Wallace contacted her and knew she was coming to the meeting and asked her to speak because she knew what he was talking about.

Chairman Patrick inquired if Ms. Vining filled out a speaker form.

Ms. Vining advised yes.

Chairman Patrick called Ms. Vining to the podium.

Ms. Vining addressed the Board.

Chairman Patrick inquired how the Petitioner gave her permission to speak on his behalf.

Ms. Vining advised that Mr. Wallace called her on the phone and advised that she had spoken for Mr. Wallace at a previous meeting concerning this issue.

Discussion ensued.

Mr. Kampert advised on January 19 they held a mediation meeting to attempt to resolve issues, and at that meeting they did not come to conclusions, and so there was to be a follow up meeting and staff did not attend this meeting, it was meeting to be between the applicant and the petitioner Mr. Wallace in which Mr. Wallace was unable to attend and Ms. Vining attended in his place. Mr. Kampert advised the Mr. Jernigan in reference was Mr. Tracy Jernigan who works for the developer and not Terry Jernigan.

Commissioner Stewart inquired since this is a quasi-judicial issue do they have an issue with Mr. Wallace not being at the meeting.

Chairman Patrick advised that was what was being determined.

Commissioner Stewart advised he had a concern on his end.

Attorney Parsons advised the Law requires them the opportunity to be heard in addition to notice, in which Mr. Wallace was given both, and if he is not present and has authorized someone it would be the Chairman’s determination. Attorney Parsons advised that some codes provide that authorization must be in writing and Okaloosa County Code does not. Attorney Parsons advised she would recommend since this is a procedural issue that in addition to giving Ms. Vining an opportunity to speak that the applicant be given the opportunity to address this procedural issue before beginning.

Chairman Patrick advised he was doing that.

Discussion ensued.

Chairman Patrick called for Mr. Dana Matthews.

Attorney Matthews advised he was present at the January 19 meeting and they felt everything, on Mr. Wallace’s 6 issues, was resolved except one issue concerning the buffering adjacent on the Magnolia Forrest Subdivision lots and the landscaping plan had been submitted, and the two issues were about saving more trees and replanting of new landscaping. Attorney Matthews advised he spoke with Mr. Wallace and inquired if they resolved the two issues remaining would Mr. Wallace withdraw his petition so they did not have to have this scheduled meeting, and he said yes. Attorney Matthews advised the scheduled a meeting to meet Mr. Wallace on site to address issues and he did not show up that Ms. Vining showed up in his place speaking for him. Attorney Matthews advised they were not notified about Mr. Wallace not being at tonight’s meeting and they would not object to Ms. Vining speaking for him because they do not want this to be continued and they have been waiting a long time to get to this point and they are prepared to answer his petition and as they understand are the only things to be considered tonight by the Board and to whether or not they agree with Mr. Kampert and his departments recommendation that a development order be issued.

Chairman Patrick spoke and advised Attorney Matthews that his main question would have been if they object and Attorney Matthews had already advised they will not, so he will allow Ms. Vining to speak for Mr. Wallace.

Chairman Patrick inquired where to start.

Mr. Kampert advised that procedurally staff presents its report

Chairman Patrick clarified if there were any objections as to the procedure they were going to follow.

Attorney Matthews advised not from the applicant.

Ms. Vining advised no objections.

Chairman Patrick advised the Chair hears no objections to the procedure that has been outlined.

Mr. Kampert advised that the revised landscape plan came in too late for it to be included in the staff report packet and he gave a copy to each of the Board members asking the Chairman to enter it and the staff report into record.

Chairman Patrick advised it was entered.

Mr. Kampert advised of staff’s position and recommendations, which are included in the packet for this agenda item.

Chairman Patrick called for Ms. Vining.

Ms. Vining addressed the Board and advised that Mr. Wise recanted his decision to remove all the trees and she thanked him and continued to explain her belief on removal of trees concerning the water drainage and water table. Ms. Vining advised that one of her concerns is the water table, with removal of trees. Ms. Vining continued with her concern of the traffic issue of the sharp wind of the street and people driving quickly and there is only 120 from Faiths Landing to the Marina not 150 feet and she would like to know how they would resolve this.

 Discussion ensued concerning the area of Ms. Vining’s concern.

Ms. Vining went on to advise her other concerns were basically the trees and she thought the lift station issues were pretty much resolved. Ms. Vining brought up the concern of the reciprocal easement between the resort and the residents who live on the golf course stating that the residents have a say-so on the drainage, building, and other things and she advised that Judge Stone upheld the agreement in court on December 14.

Chairman Patrick inquired if this is the litigation that was going on.

Ms. Vining advised yes and it was upheld and she, as a resident, had the right to speak with anyone concerning the drainage and what goes on behind there.

Discussion ensued.

Chairman Patrick advised that the legal answer is that the Board does not have the legal responsibility of enforcing the terms of the easement that it is a separate civil process.

Attorney Parsons advised Chairman Patrick that he was correct.

Chairman Patrick advised that the Board decides if the Development meets the Land Development Code and they do not control anything else.

Ms. Vining advised she had one other concern along with the other residents and she wanted to know if the developer was going to take any part of their back yards and continued about their fear of this happening.

Discussion ensued.

Chairman Patrick asked if Ms. Vining had any other questions.

Ms. Vining advised no, other than the road issue.

Chairman Patrick advised he wanted to address the tree issue and stated that the County requires and other legal requirements concerning storm water retention in a development, and that would have had to be engineered to be an approved project, that they are required to meet certain standards, and he didn’t feel that in engineered plans that the absorption of water does not matter, that the storm water retention provides another way and he would let the applicant answer that but he felt he would be correct about this.

Discussion ensued.

Chairman Patrick called for the applicant to speak.

Attorney Matthews addressed the Board advising that this has been an ongoing process and the last go around the Commission did approve the development and change on Feb 26, 2016, for the number 4 hole, for a 21 unit single family subdivision, on page 4 of the ordinance, reconditions that the Commission wanted. Attorney Matthews continued stating the Commission wanted to 1) make sure that any development plan subsequently submitted would take into account the storm water retention for the Magnolia Forrest Subdivision, and this has happened, 2) wanted to make sure out of the 10.2 acres that at least 4.07 acres would be recreation/open space, and the site plan shows more at approx. 4.47 acres, and 3) at the end of the cul-de-sac that there was a little park in which the County Commission wanted to be left open to the MFBTBU, Bluewater Bay and the other residents, and this has been provide for and notated on the plans. Attorney Matthews advised they have meet all three of the County’s requirements and he was going to let Mr. Matt Parker discuss more. Attorney Matthews gave the Board a brief background of how this all has come about until this current meeting. Attorney Matthews continued and addressed the comments Ms. Vining made concerning the trees and that they hold water and if they are removed they water level will raise an possibly cause flooding, advising the Board that Ms. Vining is not an engineer and may have an opinion but her statements should be stricken from the record because they have no competent substantial basis what so ever. Attorney Matthews addressed the Ren Way 150 feet issue stating that Mr. Matt Parker will address this issue, also advising they designed their driveway 250 away not 150 feet advising they were 100 feet over the required amount, and in Ms. Vining’s comments stating 150 feet. Attorney Matthews addressed the Marina Cove Rd. required amount of 150 feet and they were actually at 151.4 so this also meets the 150 foot separation requirement. Attorney Matthews advised he wasn’t going to address the lift station since Ms. Vining advised she believed it was resolved, and continued about the easement issues stating he was at the hearing with Judge Stone and what Ms. Vining advised was not what Judge Stone had said because there is still litigation about private contractual easement rights. Attorney Matthews advised there is not going to be any taking of anyone’s back yards and continued to discuss the details during construction and advised that they did not want any problems on site or any liability issues. Attorney Matthews advised that Matt Parker is the Civil Engineer and he would the contract administrator for the site contractor and he would be making sure all compliances are met. Attorney Matthews advised that everyone knew the sign off on everything was all said and done anyway and there were a couple of other things in Mr. Wallace’s report, Ms. Vining did not mention them and he did not know if he should talk about them. Attorney Matthews advised he felt Mr. Kampert and his office had gone way beyond the call of duty in this and his response in the report and the code sections and he wanted to thank him. Attorney Matthews advised the Board he would like for Mr. Matthew Parker to speak next.

Mr. Parker addressed the Board advising he was responsible for the design of this project, and he has been working as an engineer for 17 years and a licensed professional engineer for 13 years all of which has been in Okaloosa County. Mr. Parker continued by stating this project meets by far the Okaloosa County Code requirements. Mr. Parker continued by stating he felt Mr. Wise has gone above and beyond in all aspects of this development and much of the information by Mr. Matthews outlined that what Ms. Vining’s reported was inaccurate. Mr. Parker advised that they have survey data and the reasons they placed things where they did were due to code requirements and safety. Mr. Parker continued that they had an exhibit that showed all the dimensions requirements of the driveway separations and it is 262 feet from the centerline of Ren Way to the center line of their road and 151.4 feet to the center line of Magnolia Cove Rd.

Chairman Patrick advised he may want to enter that into record.

Mr. Parker entered a photo with dimensions.

Chairman Patrick advised that it was not identified and asked for it to be named so it could be marked accordingly.

Attorney Matthews requested it be identified as Applicants Exhibit #1.

Mr. Parker continued by explaining the exhibit. Mr. Parker then addressed the tree preservation requirements advising the entire project requirement would be 104 trees, and if they took just the area that had trees it would only be 32, and prior to the meeting with Mr. Wallace they were originally saving 129 trees, and they are now saving an additional 11 trees in which he would call them borderline trees were they are grading down into a storm water pond. Mr. Parker advised there plan holds the 100 year storm prevent, which is above and beyond what the requirement is in the Land Development Code and in addition the adjacent neighborhood does not supply any storm water treatment on the rear of their lots with the rear half of their lots shedding onto their property and they will be treating that as well.

Chairman Patrick inquire if Mr. Wallace knew what he just pointed out that they were handling part of the adjacent development.

Mr. Parker advised yes it was spoke of during multiple meetings in advance of their official submittal. Mr. Parker advised he has never seen a developer go this far to accommodate neighbors, and advised he has a full set of plans if they would like to see those. Mr. Parker advised the buffer required 10 feet and they are doing 30 feet, the started to discuss the pedestrian walkway and show them.

Chairman Patrick advised that he didn’t know if it was necessary for him to go into all the details of the development other than those areas that have been objected to.

Mr. Parker advised that the sewer system was agreed upon with the Okaloosa County Water and Sewer and there will be no impact of noise or odor, the required size of the lift station is 2.5 horsepower and they are implementing 5.0 horsepower, which they are doing for economic reasons for the County. Mr. Parker advised that he didn’t know if he needed to address anything further and that if they had specific questions or concerns he would answer them, he felt they had addressed everything that both Ms. Vining and Mr. Wallace brought in front of them. Mr. Parker gave a brief review of all their answers concerning the issues at hand.

Chairman Patrick called for any questions.

Attorney Matthews inquired if the latest site plan was admitted.

Chairman Patrick advised yes it was admitted.

Attorney Matthews advised that they were there to answer questions and he didn’t want to put on any more than needed and they would answer questions if needed.

Chairman Patrick advised only if they felt they needed to address any other issues.

Attorney Matthews advised he didn’t feel they needed to and would answer any questions or concerns.

Chairman Patrick called for any questions. Chairman Patrick inquired if this was the time for the public.

Attorney Parsons advised yes this would be a good time for the public.

Chairman Patrick called for Mr. Charles Stoner and made comment about assuming he was not a party of this or he would have called him earlier.

Mr. Stoner advised yes and he addressed the Board advising he had concerns of dangers concerning traffic issues on the road to the Marina. Mr. Stoner inquired if someone had considered making another lane and had it been considered to lower the speed limit or anything in that area because it is a very heavily used area for runners and bikers.

Chairman Patrick asked the applicant or staff to address Mr. Stoner’s issues.

Attorney Matthews addressed the Board advising the 150 foot separation distance per the code that addressed for that MPH and they do not set the limit they just comply with the code. Attorney Matthews advised the County controls the road and it doesn’t have anything to do with their project.

Chairman Patrick inquired if Mr. Kampert had anything to ad.

Mr. Kampert advised no, unless Mr. Parker or Mr. Sanguyo wanted to talk about the effect of the posted speed zone and design of the road. Mr. Kampert advised he felt that counsel already stated that the code sets the distances and takes speed into consideration.

Mr. Parker addressed the Board advising the posted speed limit is 25 mph. and there are two different requirements the driveway separation distance of 150 feet, and the visibility triangle distance that takes into account the type of issues the people are bringing up and they have met both requirements.

Discussion ensued.

Chairman Patrick called for anyone else and stated they are ready for a motion.

Attorney Parsons advised that the petitioner had the burden she would recommend they allow her to get a rebuttal.

Chairman Patrick called for Ms. Vining.

Attorney Parsons advised the Chairman to limit the rebuttal to only what was brought up by the applicant.

Ms. Vining addressed the Board and reiterated the concern of public safety, stating they had the rules, everything set up by DOT, the speed limit but human nature is totally absolutely different, and she is saying there are going to be serious accidents there. Ms. Vining also brought up the water issue again advising what good is it be to build 21 homes if it is going to flood in the area and she was worried about the ingress and egress for the subdivision.

Discussion ensued.

 Chairman Patrick inquired if they need to state a finding of facts in the motion.

Attorney Parsons advised she would recommend if the petitioner had or had not meet their burden to demonstrate that the development order is inconsistent with the Land Development Code that you put that on the record in the motion.

Chairman Patrick called for a motion.

Commissioner Collins advised they have had a good chance to review the concerns from the residents and even before the concerns originated the County did a review of the plans and asked a bunch of questions including Water & Sewer, and Public Works and they did their jobs to see if it was consistent with the LDC and now they have had the chance to address some specific concerns. Commissioner Collins advised he felt after reading the responses from the County that they were thoroughly addressed, and from the meeting tonight and the documents before him he cannot see where they are not meeting the LDC requirements.

***Commission Collins made the motion to uphold the notice of intent to approve the development order, second by Jeremy Stewart. 3 ayes---motion passes.***

1. **OTHER BUSINESS**

The **March 9, 2017 Planning Commission meeting will be held at 208 N. Partin Dr. City of Niceville Board Room, Niceville, FL.**

1. **ADJOURNMENT**

Chairman Patrick adjourned the meeting at 7:05pm.

Prepared by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Leslie Adams, Recording Secretary

Date 02/17//17