

## **PLANNING AND ZONING COMMISSION**

There was a meeting of the Indian River County (IRC) Planning and Zoning Commission (P&Z) on Thursday, February 8, 2007 at 7:00 p.m. in the Commission Chambers of the County Administration Building, 1840 25<sup>th</sup> Street, Vero Beach, Florida.

Present were members: Chairman Bob Bruce, District 2 Appointee; Donna Keys, District 1 Appointee; Craig Fletcher, District 3 Appointee; Greg Smith, District 4 Appointee; George Christopher, District 5 Appointee; George Hamner and Dr. Richard Baker, Members-at-Large; and Ann Reuter, non-voting School Board Liaison.

Also present were IRC staff: William G. Collins, County Attorney; Joseph Baird, County Administrator, Bob Keating, Community Development Director; Jim Davis, Public Works Director; Chris Mora, Assistant Public Works Director; Stan Boling, Planning Director; John McCoy and Brian Freeman, Senior Planners, Current Development; and Terri Collins-Lister, Staff Assistant IV.

### **Call to Order and Pledge of Allegiance**

Chairman Bruce called the meeting to order and led all in the Pledge of Allegiance.

### **Approval of the Minutes**

**ON MOTION by Mr. Fletcher, SECONDED BY Mr. Hamner, the members voted unanimously (7-0) to approve the January 25, 2007 meeting minutes as presented.**

### **Items on Consent**

- A. Top Hat N' Tails Pet Ranch:** Request for administrative permit use approval for a pet boarding kennel to be known as Top Hat N' Tails Pet Boarding Facility. Mercer Beck Enterprises, LLC, Owner. Kimley-Horn & Associates Inc., Agent. Located at 7890 66<sup>th</sup> Avenue. Zoning Classification: A-1, Agricultural 1 (up to 1unit/5 acres). Land Use Designation: AG-1, Agricultural 1 (up to 1 unit/5 acres). **[Quasi-Judicial]** (SP-MA-07-01-06/2006070238-56709)

Chairman Bruce stated the only item on consent had been pulled and asked Mr. Stan Boling, IRC Planning Director to explain.

Mr. Boling told the committee, the applicant had agreed with IRC Staff, to postpone the item to the February 22, 2007 P&Z Meeting. He continued IRC Traffic Engineering informed staff that there was a correction to one of the attachments and asked for it to be in the next P&Z packet.

### **Item not on Consent**

Chairman Bruce read the following into record.

- A. Indian River Service Center:** Request for major site plan approval to construct a service center for Florida Power & Light (FPL) electric utility infrastructure. FPL Company, Owner. Rhon Ernest-Jones Consulting Engineers, Inc., Agent. Located at the southwest corner of 98<sup>th</sup> Avenue and 16<sup>th</sup> Street. Zoning Classification: IL, Light Industrial. Land Use Designation: C/I, Commercial/Industrial. **[Quasi-Judicial]** (SP-MA-06-10-55/2006060024-55508)

Mrs. Collins-Lister administered the testimonial oath to all those present wishing to speak on any quasi-judicial items.

Mr. John McCoy, IRC Senior Planner, Current Development, reviewed the information contained in his memorandum, a copy of which is on file in the Commission Office. He remarked the project would affect a link on State Road (S.R.) 60 between 66<sup>th</sup> and 82<sup>nd</sup> Avenues, which has a concurrency deficit. He indicated FPL would need to mitigate their impact on that link and explained two ways it could be done. He stated FPL could mitigate though a Proportionate Share Agreement or if the BCC passed a decision to advance fees, they would be responsible for the payment of a fee, basically to serve as interest on the funds that the County advanced to widen S.R. 60.

Mr. McCoy referred to Attachment 8 of the P&Z packet, a memorandum from Mr. William G. Collins, IRC County Attorney, which was a suggested change for modification of the condition contained in the staff report. He opined either condition would work, however essentially FPL would need to make the necessary modifications going forward to be able to meet concurrency on S.R. 60 for that link between 66<sup>th</sup> and 82<sup>nd</sup> Avenues.

Mr. Christopher verified whether staff recommendation included the condition presented by Attorney Collins. Ms. Keys mentioned there was no right-of-way on 98<sup>th</sup> Avenue to widen the road and the site plan design accommodates 120 feet of right-of-way and the applicant had agreed to dedicate without compensation the right-of-way on 98<sup>th</sup> Avenue, but she wondered how much

right-of-way FPL would be dedicating. Mr. McCoy stated there was an existing 60 feet of right-of-way and FPL would dedicate another 60 feet to create 120 feet of right-of-way.

Mr. Nick Blount, Manager of Internal Affairs, FPL, told the committee FPL currently served almost 50,000 accounts in IRC. He indicated FPL's crews travel from St. Lucie County up to IRC to maintain and operate the infrastructure as well as build new infrastructure and felt it was not an efficient and effective way to do business. He mentioned the proposed facility would allow field crews, as well as the staff of engineers and designers to be more productive during normal operating procedures. He said more importantly it would be a place where the FPL, other foreign crews and contractors could enhance commitment to respond following a major storm.

Mr. Hamner asked Mr. Blount if he had read and understood Attorney Collins' recommendation. Mr. Blount responded in the affirmative and informed Mr. Hamner, FPL had been following the concurrency issue on S.R. 60 very closely and would like to the service center to be completed by the next hurricane season.

Mr. Fletcher told Mr. Blount of his issue with 98<sup>th</sup> Avenue and why he would not be able to support this project. He felt the FPL Service Center was necessary, but there was well over 1,700 homes being developed that would eventually absorb all of the traffic flow on 98<sup>th</sup> Avenue. He continued it was the County's responsibility to widened 98<sup>th</sup> Avenue and it needed to be done within a timely fashion to let FPL build a service center. He noted 98<sup>th</sup> Avenue could not be widened on the northwest side unless there was a taking of public land.

Mr. Gene Waddell, 8155 25<sup>th</sup> Street, pointed out in September 2004, FPL was widely criticized because of their response time was not as expeditious as the citizens of IRC felt it should be. He opined this was a great response on FPL's part to tell this County that they would invest the money and build a facility in order to give better response after a major storm. He urged the P&Z to do everything possible to let this project move forward.

Mr. Joseph Baird, IRC County Administrator, told the committee, the County had requested FPL build a facility in IRC, so they could better respond in a time of a hurricane and that was what they were doing. He pointed out in a time of a hurricane S.R. 60 and 98<sup>th</sup> Avenue would be the least of the problems.

A question was raised to FPL on the nature of the emergency that would cause the use on 98<sup>th</sup> Avenue. Mr. Blount replied the emergency access would

be used to bring in additional crews to the area during a major storm and at normal times the gate would remain closed.

Ms. Keys directed she would like to find some way for the P&Z to make the project work. She continued there was a canal on the east side of 98<sup>th</sup> Avenue and industrial buildings on the west side and wondered if there was a way to be proactive on 98<sup>th</sup> Avenue and divide into northbound and southbound lanes by bridging the canal and putting two other lanes on the east side of the canal.

Mr. Bob Keating, IRC Community Development Director, replied in the affirmative and said culverting the canal was also an option. He explained the County could widen the road to the east and use the Indian River Farms Water Control District's right-of-way as long as the County could accommodate their needs by culverting the canal and meeting their criteria. He mentioned the County was looking at extending 4<sup>th</sup> Street to 98<sup>th</sup> Avenue and making it an alternative way to get to the east.

Mr. Hamner understood the units that had been committed to 98<sup>th</sup> Avenue, but asked the P&Z to also look at the building patterns. He felt P&Z should be realistic about the traffic counts and there was no question once all the units were built, the road would be over capacity. He continued the road was not over capacity today and the FPL Service Center was something needed.

Ms. Keys felt the only reason 98<sup>th</sup> Avenue needed to be widened was because of the development in the future and could there be some type of Developer's agreement used to share the cost.

A discussion followed on the concurrency problems in the County and some other alternatives for 98<sup>th</sup> Avenue.

Mr. Jim Davis, IRC Public Works Director, stated the canal itself was not a constraint. He remarked to culvert the canal would cost \$300 a foot and it was about 2,600 feet long. He pointed out the actual canal was dug in the wrong place and the Drainage District had additional right-of-way there. He opined if the Hibiscus Airport did shut down it would create an opportunity to relocate the canal to the east to provide for a 120 foot right-of-way.

Ms. Keys wondered how and when this could be implemented. Mr. Keating mentioned the proposed development projects were on hold and was not an immediate situation.

Mr. Davis stated a traffic study had been done and the 98<sup>th</sup> Avenue corridor was looked at when the 2030 Plan was developed. Mr. Davis outlined

the plan projected the need beyond the year 2011 and he advised that was why there was no immediate project. He continued there were no vested concurrency developments which had paid impact fees to break the road, however there was a lot of speculative development and it would be very difficult to predict at this time. He referred to the link sheets and remarked the link was not broken with the trips that had paid impact fees and vested.

Mr. Fletcher agreed the link was not broken, however it would be soon. He indicated all these future developments were being approved with no plans whatsoever to widen the road knowing there would be a problem soon.

Mr. Christopher asked Mr. Baird when the S.R. 60 Interest Agreement would come before the BCC for approval. He raised the question because there were two conditions for meeting concurrency, one being fanciful. He opined there had not been any expressed interest in putting S.R. 60 on the County's Five Year Plan and fair share could not be done unless it was put on the plan. He gave the second condition was the interest approach.

Mr. Baird said there was discussion whether to move forward with S.R. 60 because of the cost and the loss of interest. He stated the S.R. 60 Interest Agreement would go before the BCC around mid-March 2007, for consensus and then it would go back to the BCC for approval of the ordinance.

Mr. Baird stated the County was moving ahead with the agreement and was trying to come up with a solution. He indicated legal staff had gone through several drafts to make sure the agreement could stand up in court.

Mr. Christopher asked if there were any unresolved issues between the County and the State of Florida that needed to be agreed upon. Mr. Baird replied the County had a resolution to move ahead with both phases of S.R. 60 and then would enter into a Joint Partnership Agreement (JPA) with the state.

Mr. Davis mentioned the State had moved the final design of both links up a year, in other words they were advancing the final engineering in anticipation of an agreement.

Mr. Christopher stated there were a number of projects backed up that wanted to come before the P&Z and staff was prepared to condition approval on meeting concurrency upon resolving the interest fee situation. He felt there were a lot of unknowns out there and did not want to receive application after application not meeting concurrency.

Attorney Collins told the committee to keep in mind if the site plan was approved with a condition on it, the site could not be released so the building permit could be pulled until conditions were met.

Mr. Bruce opined this was a very special situation and was inclined to approve this project. Ms. Keys referred to Attorney Collins' memo regarding the change in the recommendation and wanted to know what the process was.

Attorney Collins replied when Senate Bill 360 was implemented, it changed the process for amending the Capital Improvements Element so it could be done in a single public hearing before the BCC at a regularly advertised public hearing.

A discussion ensued on the process for Capital Improvements.

Ms. Keys reiterated there were a number of projects that had not been approved because of the issue with S.R. 60 and asked if any of those projects also offered to be a part of S.R. 60 Interest Agreement. Mr. McCoy stated either of the two choices under the concurrency conditions would go to the BCC. The BCC would see all the facts and make a decision at that time, so anything going forward would need to be satisfied by the BCC decision.

Dr. Baker questioned what would be on the FPL Service Center Facility site. Mr. McCoy stated it would be a large staging area; however there would be an administration center, parts building and a repair facility for their trucks.

Dr. Baker asked how many FPL trucks would be located on the site and how soon did FPL estimate building the facility once all approvals were in place. Mr. Blount estimated 20 to 30 trucks would be on site at one time and from a schedule standpoint they would still need to obtain the building permits, go through the bidding process, and hopefully start building this summer.

Mr. Rich Gibbons, Project Manager, FPL, stated if they could get all of the permits by the end of May 2007, it would take 12 months to construct the entire facility which they planned to be in service by June 2008.

Dr. Baker asked if the FPL Service Center was approved how this would effect the future developments, would P&Z be more obligated to approve other projects in the process because we approved the FPL Service Center.

Attorney Collins said whether you approve the site plan depends on whether that individual site plan meets all the criteria for approval, not someone else's.

Ms. Keys asked if FPL entered into a Proportionate Share Agreement would they be automatically vested right away. Mr. Keating replied if an applicant does a Proportionate Share Agreement, paid all of the impact fees, water and sewer capacity charges, they would be vested on all of the roads impacted. Ms. Keys concluded if FPL was first on the site, they would receive all of the vesting, trips and the next applicant would need to prove concurrency.

**ON MOTION BY Ms. Keys, SECONDED BY Mr. Hamner, the members voted (6-1), to approve the request for a major site plan approval with Attorney Collins' recommendation. Mr. Fletcher opposed.**

### **Public Hearing**

Chairman Bruce read the following into record:

- A. Bloomfield at Vero Beach:** Request for planned development (PD) special exception use approval for a project to be known as Bloomfield. MGC Development Group, LLC, Owner. Kimley-Horn & Associates, Inc., Agent. Located on the south side of 9<sup>th</sup> Street SW (Oslo Road), west of 12<sup>th</sup> Avenue SW. Zoning Classifications: RM-6, Residential Multi-Family (up to 6 units/acre) and RS-6, Residential Single-Family (up to 6 units/acre). Land Use Designation: L-2, Low Density Residential (up to 6 units/acre). Density: 4.59 units/acre. **[Legislative]** (PD-06-10-08.2006020021-55458)

Mr. Brian Freeman, IRC Senior Planner, Current Development, reviewed the information contained in his memorandum, a copy of which is on file in the Commission Office. He indicated this was a request for special exception use and conceptual Planned Development (PD) Plat. He noted it would be a recommendation since the approval would go before the BCC. He referred to the PD Process and noted P&Z would make a recommendation to the BCC. He continued if the Conceptual Plan was approved by the BCC, then the applicant would come back to the P&Z with a preliminary plan.

Mr. Smith referred to the sidewalks on the south side of the development along 11<sup>th</sup> Street Southwest. Mr. Freeman replied the sidewalks would be constructed by the applicant with the development of the project and needed to be in place prior to the issuance of the first certificate of occupancy within the development. Mr. Smith asked if Grace Woods Development would need to develop a sidewalk as well. Mr. Freeman replied in the affirmative and noted the sidewalks would tie in together. Mr. Smith inquired on the time frame for the development of Grace Woods. Mr. Keating stated it would be very soon because they were getting hurricane housing recovery money from the County to

subsidize some of the units and should receive a land development permit by late spring.

Mr. Smith mentioned his thought of which ever development would be built first there would be an agreement between both developments for the development of a sidewalk extended to Thompson Elementary School.

Mr. Davis mentioned the IRC Public Works Department would be paving 11<sup>th</sup> Street Southwest under contract, so within four to five months the road would be paved from 9<sup>th</sup> Court to 17<sup>th</sup> Avenue.

A discussion ensued on extending the sidewalk and the number of units in the new development which could impact the schools in the area.

Attorney Collins questioned the southern access on the site plan referred to as emergency access only and if 12<sup>th</sup> Avenue and 11<sup>th</sup> Street was paved and there were sidewalks, it would seem like any vehicular traffic would be forced almost to Oslo Road. He asked the reason for the access being listed as emergency access and felt it should be full connection to 12<sup>th</sup> Avenue.

A discussion ensued on the emergency access. Mr. Dave Woodward, Kimley-Horn and Associates, Inc., opined it may be labeled incorrectly as an emergency access. He continued Bloomfield at Vero Beach would be a gated community with the main gated access on the north entrance. He suggested the south entrance would be used by the residents at any time.

Mr. Hamner referred to Mr. Woodward and asked if the Bloomfield at Vero Beach development was done prior to the Grace Woods completion of their sidewalk, would the developer agree to consider going ahead with paving the sidewalk to Thompson Elementary School. Mr. Woodward felt the Grace Woods development would be ahead of the Bloomfield at Vero Beach, however he did not see it being a problem.

Dr. Baker wanted to know if a tree survey was done and why did P&Z not get a copy of the survey. Mr. Woodward replied a conceptual tree survey was done to plan the development; however it was a conceptual plan and they were not necessarily required to provide one at this time.

A discussion ensued on the tree survey and Mr. Woodward expressed when the development gets into a more detailed design, they would be able to show more areas of trees being saved.

Mr. Baker remarked it was detailed in the report that Gopher Tortoises were found on the site and asked if a professional performed the survey. Mr. Woodward pointed out three Gopher Tortoises were found on the site and the survey was done by Ms. Lisa Frazier, Environmental Planner, Kimley-Horn and Associates, Inc.

Ms. Frazier stated a preliminary assessment was done on the property and it was discovered a few Gopher Tortoise burrows. She indicated according to the Florida Fish and Wildlife Conservation Commission, they do not require a survey and Kimley-Horn and Associates does not propose to do a full survey until much further ahead in the site plan process. A discussion followed.

**ON MOTION BY Mr. Fletcher, SECONDED BY Mr. Smith, the members voted unanimously (7-0) to approve the request for the planned development special exception with the clarification of the southwest walkway and the correction to the site plan labeled emergency access to read south entrance.**

### **Commissioner Matters**

Ms. Keys pointed out there was a discussion at the January 23, 2007 BCC meeting in regards to the Developer's Agreement. She stated there was a developer at one of the P&Z meetings and his project was denied, he asked how it could be denied when the BCC had already approved the Developer's Agreement. She continued Attorney Collins came up with an idea of adding standard wording to the Developer's Agreement, so that an applicant understood this does not mean the project had been approved and asked Attorney Collins to bring the matter back before the P&Z. A discussion followed.

Ms. Keys thanked Attorney Collins for his recommendation in the memo regarding the FPL Service Center.

Ms. Keys mentioned Commissioner Wheeler made statement at a BCC Meeting a couple months ago about taking villages out of the Comprehensive Plan which staff was working on and she wanted to know the progress. Mr. Keating stated it was one of the January 2007 Comprehensive Plan Amendments that would be coming through the cycle.

Mr. Keating explained during the months of January and July Comprehensive Plan Amendments were accepted and it takes a while to finish the staff reports and advertise for public hearings. Mr. Keating emphasized there

were five Comprehensive Plan Amendments including all of the school concurrency related Comprehensive Plan Amendments.

Mr. Christopher asked when the Comprehensive Plan Amendments would go to the state. Mr. Keating stated the Comprehensive Plan Amendments would go before P&Z for approval and then the BCC. He continued the issue before the BCC would be whether or not to transmit those to the state, after the state would review and they would issue an Objections, Recommendations and Comments Report which would go back to the BCC for adoption. A discussion followed.

Ms. Keys indicated she would prefer to see strikeouts and underlines on the Comprehensive Plan Amendments. Mr. Keating stated it could be done, however it would be very difficult to read with all of the changes. It was determined the Comprehensive Plan Amendment would show all of the changes made to the plan.

Dr. Baker discussed the Century Town Shopping Center which was not approved at the January 11, 2007 P&Z Meeting and mentioned he had received a call immediately after the meeting wondering why 8<sup>th</sup> Street was not being paved to avoid the 58<sup>th</sup> Avenue and S.R. 60 problem.

Mr. Mora answered as part of the diversion study being looked at for the intersection, IRC Staff was looking at other east and west roads, one being College Lane to make the connection over to 16<sup>th</sup> and also 12<sup>th</sup> Streets. He opined there would be right-of-way issues on 8<sup>th</sup> Street further west. Mr. Baird spoke up and stated the County had problems getting right-of-way in that section because the owners did not want to give the right-of-way. Dr. Baker proposed using Eminent Domain, however it was explained the money was used to allocate the funds to the road projects that were further advanced in the Capital Improvements Program.

Mr. Baird explained there was a no right-of-way policy adopted by the BCC to be more aggressive in obtaining the right-of-way.

Ms. Keys pointed out in the condemnation process a resolution was proposed, but was never adopted or voted on. She confirmed a resolution was in written form with certain specific dates and procedures and wondered what happened to the proposal.

Mr. Joseph Paladin, Developer, Atlantic Coast Construction and Development, indicated the resolution was submitted to the BCC for approval and Attorney Collins wanted to review it again in case he had some legal

questions before it was adopted. He explained the County Attorney's office would bring it back to the BCC.

Mr. Hamner referred back to the Comprehensive Plan Amendment deletions and asked Mr. Keating if this would add a lot of time or could it be done easily. Mr. Christopher felt the changes needed to be shown to help the P&Z understand what changes were being made to the document. Mr. Fletcher felt with too many strikeouts and deletions, the table became very confusing. Mr. Keating replied showing the changes were not that time consuming and thought it had been done the last time.

Mr. Christopher inquired about Ocean Concrete and would it be coming before the P&Z and the BCC. Mr. Keating stated the application was in for an entire year and it had expired, then the applicant re-submitted the application.

Mr. Keating explained the IRC staff was being proactive with Ocean Concrete and were meeting with them on February 9, 2007. He said there would be a segment on the County website where it would contain all the information related to Ocean Concrete.

Mr. Christopher reported at the January 25, 2007 P&Z meeting, he had suggested P&Z look at doing a workshop on improving the quality of subdivisions. He had talked with ten people in various professions and it would be discussed at the workshop how to improve subdivisions and commercial developments. The workshop would be made up of four panels, each with three to four professionals consisting of architects, engineers, builders, planners and environmentalists.

Chairman Bruce suggested the Workshop to be added to the February 22, 2007 P&Z Agenda and asked Mr. Christopher to include backup materials.

A discussion ensued on the facilitator of the workshop. Attorney Collins pointed out the P&Z Chairman had the power to make recommendations to the BCC and suggested a separate meeting of the P&Z allowing public discussion from the panels. He continued based on what was heard from the various panels and the Chairman Bruce could make recommendations as to any changes he felt were appropriate.

### **Planning Matters**

Mr. Boling reported there would be a U.S. Highway 1 Workshop on February 9, 2007 at 9 a.m. in the Commission Chambers. There would be discussions on U.S. Highway 1 in regards to concurrency, the deficit link between

49<sup>th</sup> Street and 65<sup>th</sup> Street, six lane widening, parallel north/south roads such as Indian River Boulevard and Old Dixie Highway and the Developer's Agreement.

Chairman Bruce stated there were two appeals, Century Town Center and The Source coming before the BCC at their February 13, 2007 meeting.

Mr. Boling concluded other meetings were scheduled for February 15, 2007, a School Concurrency Meeting at the Richardson Center, and on February 19, 2007, IRC would be having a joint meeting with St. Lucie County to discuss Cloud Grove and a few other issues. Also at the February 20, 2007 BCC meeting there would be a rehearing on the Nextel Tower.

**Attorney's Matters**

Attorney Collins stated when the BCC turned down the Nextel Tower, Nextel filed suit in Federal Court and there had been negotiations regarding a settlement that would be presented to BCC and because it was denied in a public hearing it was determined the public should be noticed.

Attorney Collins mentioned the County was being sued by DiVosta, the developer of Waterway Village. He reported they were contesting the BCC's determination that Waterway Village was not vested through the Developer's Agreement for the entire project for the purposes of traffic concurrency.

**Adjournment**

There being no further business, the meeting adjourned at 8:52 p.m.

\_\_\_\_\_  
Bob Bruce, Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Terri Collins-Lister, Staff Assistant IV

\_\_\_\_\_  
Date