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OF BOARD OF COUNTY COMMISSIONERS
OF SEPTEMBER 12, 2006

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September 12, 2006

**CONTINUATION OF PUBLIC HEARING - MEETING OF THE
BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER
COUNTY**

The Board of County Commissioners of Indian River County, Florida, met in Special Session at the County Commission Chambers, 1840 25th Street, Vero Beach, Florida, on Tuesday, September 12, 2006, at 6:00 p.m. to continue the public hearing of August 22, 2006 on Treviso LLC's request for rezoning approval from A-1 to RM-8, and to provide time for the developer to meet with the interested parties so they would not have to take time off from work. Present were Chairman Arthur R. Neuberger, Vice Chairman Gary C. Wheeler, Commissioners Sandra L. Bowden, Wesley S. Davis, and Thomas S. Lowther. Also present were County Administrator Joseph A. Baird, County Attorney William G. Collins, II, Executive Aide to the Board Kimberly Massung, and Deputy Clerk Maria Suesz.

1. CALL TO ORDER

Chairman Arthur R. Neuberger called the meeting to order at 6:00 p.m.

2. INVOCATION

Stan Boling, Director of Planning, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Wesley S. Davis led the Pledge of Allegiance to the Flag.

**4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY
ITEMS - NONE**

5. PUBLIC ITEMS

A. PUBLIC HEARINGS

**1. CONTINUATION OF PUBLIC HEARING ON REQUEST FOR REZONING
APPROVAL AND PROPOSED SETTLEMENT OF LAWSUIT, TREVISO, LLC v.
INDIAN RIVER COUNTY (QUASI-JUDICIAL)**

County Attorney William G. Collins, II, related Treviso has made application to the Board to rezone 19.48 acres currently zoned Agricultural to Multi-Family Residential, RM-8, up to 8 units per acre. He reviewed the memorandum of September 5, 2006 in the backup, providing the history of the rezoning request and the changes made in Treviso's application since the last public hearing. Attorney Collins advised that the Lawsuit is temporarily held in abeyance for possible settlement. He also advised if the request to rezone to RM-8, together with the deed restrictions limiting them to the 7 units per acre, and the sale price restrictions are approved by the Board, the pending litigation will terminate and the case will be dismissed after a thirty-day appeal period. He concluded, advising that the Board not approve the rezoning the litigation would continue. (They await further ruling in court.) He reviewed the Motion of the last meeting to continue the request to hold an evening public hearing to allow the developer to meet with the people in the neighborhood to explain the additional deed restrictions that may have resulted from a prior Board meeting, and then make a final decision.

Clerk's Note: The Chairman adjourned the meeting at 6:07 p.m. in Conference Room "A" and he reconvened the meeting in the Commission Chambers at 6:13 p.m. with all members present.

Mr. Charles Siemon, Siemon and Larsen, representing the owner Treviso, stated that they held a meeting with the neighbors in the area of this project and understood many of their concerns. He used a PowerPoint presentation (not on file) to review the proposal and addressed concerns that included providing adequate public facilities, sufficient landscape buffering, and 25-foot setbacks between structures. He related that on the west side between the structures, there is a 75-foot distance and they are providing road material that will be sustained. He pointed out that from the entry road looking at the existing tree line and high scrubs, the development is 235 feet on the other side of this property. He also addressed some traffic concerns and stated they are improving their portion of 16th Street. Workforce housing, he said, was another area of concern and he told of plans to have a three-tiered sale price on the units. In conclusion, **Mr. Siemon** stated, “Steering growth to the area is good planning. It is important for long term physical integrity.” He asked that the Board give due consideration and grant the RM-8 with limitations through the deed restrictions.

Attorney Collins posed questions regarding what changes were made to the deed restrictions based on the meetings that they held, whether they were limiting the total number of units through the deed restrictions, and what the distance would be from the property lines.

Mr. Siemon responded that the language was changed to reflect that the quality of the workforce housing units will be of the same character and they would not be seen as an inferior product. In regards to the elevations and exhibits discussed at the August 22, 2006 BCC meeting, he said they would not have any units close to the property line. He wanted the commitments identified as a condition in granting his approval, but Attorney Collins explained to him that could not be done in the rezoning stage of his application. Mr. Siemon understood and he said they would come back and add to the restrictive covenants to each of those items that he had identified.

The Chairman opened the public hearing.

The Clerk swore in all those present wishing to speak on this item.

Joseph Paladin, owner of Atlantic Coast Development and President of the Workforce Housing Committee, supported this project because the developer had gone beyond what is required and they are interested in working with the County.

Will Barker, 7220 16th Street, was concerned with having multi-family homes in the middle of single-family homes.

There was a brief discussion regarding the paving project for 16th Street.

George Beuttell, 5000 16th Street, thought this was a good project and he saw no reason why the applicant should be denied his request.

Lynn Fleming, 6820 16th Street, is dead-set against this project. She thinks it is moving too quickly and that the developer is bringing in high priced housing.

David Brocksmith, 7406 16th Manor, West Lake Estates, envisioned what the traffic would be like. He did not understand how there could be less density with 135 units than if you have 90 units. He requested the Board keep it zoned as RS-6.

Chairman Neuberger explained they are trying to settle a lawsuit. He asked Mr. Siemon to explain how he determined the trips.

Discussion ensued among the Commissioners as to why they are considering rezoning this area. The two ordinances that affect this development have been changed and it became necessary to reconsider the zoning of this development.

George Christopher, Planning and Zoning Commission, suggested this item be tabled. He said it was time that they did a study of multi-family residential development.

Commissioner Davis inquired what has been staff's experience with multi-family residential traffic counts. Assistant Public Works Director Chris Mora confirmed that they have not done studies particularly for this County, but they have used the Institute of Traffic Engineers (ITE) and looking at rates used by ITE multi-family units have fewer occupants and generate fewer trips per day. They are on target when they say multi-family units produced 40% fewer trips.

County Administrator Baird pointed out that earlier in the day he advised the Board that counting trips for new subdivisions and development was going to be a problem. They were told it was just a number to use for long-term planning and it would not be used for development in planning and zoning, yet it already has occurred.

H. Roscoe Niblack, who lives on the corner of West Lake Estates at 74th Avenue and 16th Street, said the issue has not been resolved with what they have done on 16th Street. He wanted to set the record straight that his pool is the one filled with dirt. The walls were developed to block the road, but it ends and does not go behind his house. He said he has complete exposure to 74th Avenue and he still gets the dust bowl.

Jim Cooper, 7405 16th Manor S., re-emphasized the traffic numbers and gave a quick calculation that he did with the realization of Mr. Keating's adjusted numbers with an RM-6. The bottom line is, he said, "Less traffic is better."

Julie Stroh, 7400 16th Manor, thanked the Board for holding a 6:00 p.m. meeting. She advocated against the project. She spoke of the little effect a 6' wall has over a two-story home. It seemed to her there was some kind of manipulative ploy. She saw inflated cost per housing posing a real problem for the workforce. She displayed a zoning map showing one lot in the surrounding area zoned RM-8 and she asked the Board to hold them to RM-6.

Senior Planner Gale Carmoney displayed a map indicating the surrounding zoning areas to this development.

Commissioner Lowther stated that regardless of this project there is going to be more traffic on 16th Street and 74th Avenue.

Commissioner Wheeler said the bottom line is we increase density overall as well as increasing traffic.

Pat Carmoney, 7411 16th Manor S, said she was interested in the market and “communities.” She spoke in opposition of the project.

Larry Echelberger, West Lake Estates, spoke adamantly against this project. He displayed a photograph (not on file) showing the view of the town homes from his backyard and the ship-shod work they did with the fence. He brought this before the “old” Board and the developer was told to bring this back to the Board before they did anything. He advised the Board is being left out of the loop along with the neighborhood. His concerns involved the traffic headlights going into his backyard and not being able to get out of their neighborhood once the town homes open up. He too is getting dirt in his pool from the unpaved road.

Chairman Neuberger stated that the hearing was not to discuss unpaved roads, yet

Mr. Echelberger added that it was the County that left them hanging, because the road was scheduled to be paved five years ago.

Commissioner Davis asked staff if they had a rebuttal. He did not want this to happen on the other side of the development because that road also was unpaved. Mr. Keating reviewed the Minutes from 1999 showing what happened with 16th Street and Pointe West at that time.

The Chairman asked Mr. Siemon why he would want to build in a down market and he responded that there are housing type opportunities that are not served by this product and they thought they were well targeted with the product. He wanted like to make it clear that the three units to the acre subdivision isn't really a viable opportunity. They believed the small lot subdivision was feasible, but did not think it was the right product for this neighborhood. He

said they are not going to produce a high quality product on fifty-foot lots. He hoped that would be taken into consideration.

David Ofstein, CJM Communities, gave a lengthy and detailed explanation of the site plan development. CJM committed to escrow its portion of the cost to pave 16th Street before they got their first building permit.

County Attorney Collins interjected that it was in our Code already to pave the roads before the permit was issued and told Mr. Ofstein he is not giving them more than what is required.

Mr. Ofstein concluded by asking the Board to consider the RM-8 rezoning with the deed restrictions.

Commissioner Wheeler learned that Mr. Ofstein was the developer of the project near the Indian River Mall and he was very happy with what he saw being developed there. Commissioner Wheeler felt it was a “good fit” near the Mall, but here, he felt single-family residences was more appropriate.

Chairman Neuberger questioned where the people were who agreed with Mr. Ofstein. The only people he heard speak disagreed with what the developer was proposing.

Gale Carmoney, 7411 16th Manor South, approached the Board as both a resident and Planning staff. He thought it would be better delivered in a PD plan rather than trying to negotiate this. He felt they were still at the bargaining table.

Edward Tillis, 1775 45th Avenue, commented that most of the peacocks and guineas were killed by the increase in traffic and he was concerned for the safety of the children.

Mr. Paladin stated they purposely went out of their way to take every precaution possible to make sure that everyone in the neighborhood was aware of what was going to be developed. He pointed out that current there is a level of service “D”. He believes when this is

built-out there would be a higher level of service “B”. He promised that they are going to do everything that they could to get the road paved.

David Brocksmith, 7406 16th Manor, said this reminds him of “80% of the American public wants a secure border with Mexico, but the Federal Government refuses to listen to them.” He did not want multi-family in the area, but favored RS-6.

Mr. Ofstein said the product is what they want to build. If the 6 units per acre would be more appealing to the residents, they can make it work with the recommendation of P&Z and staff with RM-6, with no workforce housing and no deed restrictions. That would reduce the units by 20, which will equate to 120 trips per day.

Planning Director Stan Boling stated that staff had not reviewed the small low subdivision requirements, but 4 ½ units per acre was a good rule of thumb, and he suggested they look at 4 ½ units per acre.

Joseph Paladin agreed.

Julie Stroh, said that RM-6 with a buffer as they promised at site plan development would probably be a better alternative.

There were no more speakers and the Chairman closed the public hearing.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Bowden, the Board, by a 2-3 vote, Chairman Neuberger and Commissioners Davis and Lowther opposed, to approve staff’s recommendation to deny this request to subject property to rezone from A-1 to RM-8 and rezone the subject property from A-1 to RM-6 by approving the ordinance. MOTION FAILED for lack of majority vote.

Commissioner Davis discussed workforce housing expressing multi-family developments do not concern him as much as the esthetics that go along with a straight RS-6 subdivision.

MOTION WAS MADE by Commissioner Davis to designate the rezoning from A-1 to RM-6. MOTION DIED for lack of a SECOND.

MOTION WAS MADE by Commissioner Lowther, SECONDED by Commissioner Neuberger, to rezone from A-1 to RM-8.

Commissioner Wheeler did not support this motion. He strongly disagreed because the property was surrounded by single-family residential developments.

Commissioner Davis, in lieu of not being able to get support for RM-6, he supported RM-8.

Commissioner Bowden thought the Commissioners were making a big mistake. She said they were not here to debate and see pictures, but they were here for the zoning.

Chairman CALLED THE QUESTION and the motion carried 3-2, Commissioners Bowden and Wheeler opposed. The Board approved to adopted **Ordinance 2006-028**, amending the zoning ordinance and the accompanying zoning map for approximately 19.48 acres located at the northeast quadrant of the intersection of 16th Street and 74th Avenue from RS-6, single-family residential district (up to 6 units/acre), to RM-8, multiple-

family residential district (up to 8 units/acre), and providing codification, severability, and effective date.

6. ADJOURNMENT

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 8:18 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Arthur R. Neuberger, Chairman

Minutes Approved: _____

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