

Developer sues Walton County over project denial

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FREEPORT - A lawsuit filed against Walton County claims that county commissioners denied a developer's request to build a 17-acre project off of Jolly Bay Road in September based on "an unadopted standard" in the land-use code.

The lawsuit states that the board denied the request because of public opposition.

The lawsuit, filed by Jolly Bay LLC on Oct. 31, seeks unspecified damages, attorneys' fees and costs for "the unconstitutional taking of Jolly Bay's property and for violations of its constitutional rights," according to a press release.

The lawsuit asks the court to overturn the board's decision.

The "unadopted standard" relates to building-height restrictions.

Jolly Bay's plan originally called for developing 17 acres of a 60-acre tract on the northeast side of the Clyde B. Wells Bridge, including a 26-story, 120-unit condominium.

The plan was modified to 12 stories, but county legal counsel Mike Burke said the building's height was the major sticking point because it would have been incompatible with the surrounding area, he said.

Dana Matthews, Jolly Bay's attorney, estimated that the company has spent up to \$600,000 over the last two years on the project.

During those meetings, he said, there was "no evidence to support that it was contrary to any of the (county's) rules and regulations."

Burke said Planning Director Pat Blackshear told Jolly Bay from the outset that they could not build a 26-story condominium. The plan came before the county's technical review committee in August 2007, but Jolly Bay was told to come back after they appealed Blackshear's decision.

"Once she made that determination, they were stuck with it until they went to the Board of Adjustment and appealed it," senior planner Tim Brown said. "But they never followed through or submitted anything."

Instead, Jolly Bay lowered the building's height from 257 feet to 147 feet.

In December, Blackshear allowed the plan to move forward, but she also requested a compatibility study to ensure the tower would fit in with the residential surroundings.

"(Jolly Bay) said they would ask the Board of Adjustments to overturn that as well, but they never did," Brown said.

But the company did submit a study that "made it clear that you really weren't going to be able to see the 12-story building from any distance," he added.

After that "line-of-sight" study was submitted, Blackshear dropped the requirement for the compatibility study and the county Planning Commission voted to move the issue to the County Commission.

Meanwhile, a 50-foot height limit ordinance that already was in place in South Walton was implemented countywide in November. Several meetings were supposed to have been held before the one-year ordinance came up for renewal, Matthews said, but they were never held and the commissioners voted last month to extend it.

Either way, the Jolly Bay project was moving forward before the ordinance took effect, and Matthews said county's staff had agreed that the height limitation would not apply.

"They had to come up with another way to shoot it down, so that was when Ms. Blackshear came up with this convoluted interpretation that since this was a rural category, 70 to 100 feet (in height) would probably be okay, but nothing over 100 feet," he said.

Brown acknowledged there are no clear definitions for low-, mid- and high-rise buildings in the county code, so officials adopted the definitions out of a standard book that is used industry wide. That language was included in their staff report, he said, "but it's not in our code."