

residents, numerous emails, and staff. Stevenson disclosed ex parte communications mirroring Commissioner Miners, and also attended a community meeting held by the applicant at Switzerland Point Middle School. Bryan disclosed ex parte communications with the same contacts as Commissioner Miner, to include the applicant, as well as staff, and commented that during the PZA he had an individual from the audience ask if he was going to recuse himself, because he was a member of the church. He stated that he was not a member of the church, so he would not be recusing himself. Mays disclosed ex parte communications saying that he had the same ex parte as Commissioner Miner as well.

(5:35 p.m.) McCormack noted for the record, that if someone was a member of a church, that would not be a conflict. He asked, on the record, if either party had any questions pertaining to the ex parte. He said to let the record reflect that there were no comments.

(5:36 p.m.) McCormack called the County staff, applicant, and opposition designated experts up for swearing in. He asked that each of the members of the County staff that might be testifying that day as designed experts of the applicant and the designed experts for the organized opposition, to step up and one at a time state their names: Steven Tocknell, Michelle Mecca, Mike Koppenhafer, Suzanne Conscience, Press Tompkins, Michael Blackford, John Burnham, and Lindsay Haga. Whitehouse swore in everyone. McCormack mentioned that the general members of the public were not required to be sworn in.

(05/12/09 - 2 - 5:38 p.m.)

ADDITIONS/DELETIONS TO SPECIAL AGENDA

There were none.

(05/12/09 - 2 - 5:39 p.m.)

APPROVAL OF SPECIAL AGENDA

Motion by Sanchez, seconded by Bryan, carried 5/0, to approve the Special Agenda as submitted.

(05/12/09 - 2 - 5:39 p.m.)

1. PUBLIC HEARING - PUD 2008-04, HOPEWELL - THIS IS A REQUEST TO REZONE 31.75 ACRES FROM OPEN RURAL (OR) TO PLANNED UNIT DEVELOPMENT (PUD) FOR THE DEVELOPMENT OF 224,313 SQUARE FEET OF CHURCH AND ACCESSORY USES AND 25,000 SQUARE FEET OF COMMERCIAL SPACE. THE PLANNING DIVISION FINDS THE REQUEST TO REZONE TO PLANNED UNIT DEVELOPMENT (PUD) DOES NOT SUBSTANTIALLY MEET THE REQUIREMENTS OF THE COMPREHENSIVE PLAN AND THE LAND DEVELOPMENT CODE. THIS FINDING IS BASED UPON THE FOLLOWING INFORMATION: THE APPLICATION MATERIALS AS SUBMITTED BY THE APPLICANT, THE LOCATION OF THE PROPERTY ON ROBERTS RD WHICH IS A TWO LANE ROAD WHICH PRIMARILY CONSISTS OF RESIDENTIAL USES, AND OTHER RELEVANT INFORMATION AVAILABLE TO STAFF. THIS FINDING MAY BE SUBJECT TO OTHER COMPETENT SUBSTANTIAL EVIDENCE RECEIVED AT THE QUASI-JUDICIAL PUBLIC HEARING. THE PLANNING AND ZONING AGENCY RECOMMENDED DENIAL OF THIS REQUEST AT THEIR MARCH 19TH MEETING BY A VOTE OF 6 TO 1 (MOTION BY NELSON, SECOND BY LAIDLAW WITH CONNOR OPPOSED)

Proof of publication of the notice of public hearing regarding PUD 2008-04, Hopewell PUD, was received, having been published in *The St. Augustine Record* on April 27, 2009.

Michael Blackford, Planner II, reviewed the item, stating that the Office and Professional use category was added after the Planning and Zoning Agency Meeting. He stated that they added an excluded use portion also. He stated that Phase 1 in the project consisted of approximately 25,000 square feet of commercial space, and the multi purpose field; Phase 2 consisted of the 200,024 square feet of church and accessory uses. He stated that the building height was limited to 35 feet with exception of the sanctuary steeple, and 45 percent of the site had been designated as open space. He stated that they did have their concurrency approval, the one third required for PUD approval. He mentioned that there was one waiver request to the unified sign plan and that staff had no objections to it. He reviewed the Master Development Plan Map, and summarized the request. He stated that staff did have objection to this request because they found the commercial portion not compatible with surrounding uses. He stated that the area of Roberts Road was characterized by single family development located on large multi acre lots along with rural development. Blackford mentioned that approving the product could lead to incremental creep, allowing additional commercial uses in an area that staff found inappropriate. He stated that staff found that the request to rezone to commercial was not consistent with the Land Development Code, and that it was introducing commercial into a residential rural area, and that it would not create strip development. He said that staff also found that the commercial portion of the request was not consistent with the Comprehensive Plan. He mentioned that staff found that if this request was approved, it could have negative impacts on the adjacent uses, introducing commercial into a rural area characterized by large single family lot development. Staff found that the location of the commercial was not consistent with the Northwest Sector Overlay District. He spoke on major collector roadways. He summarized the request and stated that it was denied at PZA, by a vote of 6/1, and reviewed the reasons. He spoke about Roberts Road.

(5:54 p.m.) Isabelle Lopez, 245 Riverside, introduced the applicants; Pastor Gary William, Steve Tocknell, Michelle Mecca, Nathan Kidd and Mike Koppenhafer. She briefly went through her slide presentation, handing in, for the record, three folders full of information, *Exhibit A*. She stated that the site was located on the Northwest sector of St. Johns County. She reviewed the surrounding sites. She reviewed the various church uses in the area. She stated that there were 17 proposed findings of fact for approval in front of them.

(6:11 p.m.) Steven Tocknell, AICP, gave his credentials. He noted that in the staff report, on the issues related to the location of the church, they were already zoned for a church under OR. He spoke on sprawl, the Comprehensive Plan providing for commercial development in residential areas, the staff report trying to set a new standard of limiting nonresidential uses with Residential A, B, C, and D designated areas in the Northwest Sector, *Exhibit B*. He stated that the approval of the Hopewell PUD would further correct the residential land use and balance that presently existed. He stated that he reviewed the proposed findings of fact for approval 1 through 17 and that he concurred with the findings drafted by Ms. Lopez.

(6:20 p.m.) Mike Koppenhafer, certified architect, gave his credentials and reviewed the architectural portion of the presentation, *Exhibit C*. He stated there was no intention for the project to look like a strip mall. He reviewed the site and what was surrounding it. He reviewed the buffer requirements, landscaping, keeping the bigger buildings in the back, no front out parcels, no anchor tenants, and using compatible materials using the fabric around them. He showed the north-south section with some context. He mentioned the mixed single family homes surrounding them, and showed the

elevations that they were proposing. He stated there was extra landscaping from the property line to the adjacent property, spoke on buffers, and of locating larger structures toward the rear. Taylor mentioned that the last speaker was Pastor Gary Williams who told about the church, and that they were saving Michelle Mecca for the rebuttal. McCormack asked Lopez if she could estimate the remaining time of the case. Taylor replied that Pastor William would be very brief and would be showing five or six slides.

(6:33 p.m.) Pastor Gary William, First Baptist Church of Mandarin, shared the spiritual and social aspect of their church, *Exhibit D*. He mentioned the community health fair, community outreach programs, senior programs, youth programs, community scholarships, and the future community and business leaders. Stevenson asked, when choosing this site, if he inquired about the commercial element during the site selection process. William responded that he did. Stevenson asked him if he was told that commercial was allowed in this area. William replied that they were told that it was commensurate, that they would have to go through the process or procedure, and they were told that in all likelihood, they could put it there, because others had done the same. Stevenson asked if that was a conversation that they had with County staff prior to acquisition. William replied no, not with the County staff, but they had done their research pertaining to the property being zoned. Taylor mentioned that the questions were privileged discussion between the client and the attorney, and if they could stay away from that. Stevenson stated that she was not asking about the client and the attorney, that she respected that. She was just asking if William had gone to the County staff about the commercial element, and William had replied, no. Stevenson commended William for the work that he did. McCormack stated that next on the hearing template was the opposition's case.

The meeting recessed at 6:42 p.m. and reconvened at 6:53 p.m.

Stevenson stated that it was now time for the organized opposition.

(6:53 p.m.) Bruce Humphries, 1031 LaSalle Street, Jacksonville, stated that the residents were not opposed to Pastor William and the First Baptist Church of Mandarin, or the City of Hope, as a concept, but were opposed to the particular project in the commercial rezoning of that property on Roberts Road. He stated that they believed that the proposed rezoning was inconsistent with the Comprehensive Plan, the Northwest Sector Plan, was incompatible with the surrounding land uses, and overburdened Roberts Road creating safety issues from a traffic and transportation perspective. He spoke on the church not having full concurrency, the possibility of widening Roberts Road, and residents of Roberts Road not resolving their differences. He spoke on alternative sites. He stated that their main concern was the commercial aspect, allowing further rezoning up and down Roberts Road. He spoke on compatibility. He viewed the PUD site plan, *Exhibit E*. He spoke on the wetlands and buffers. Humphries stated that their concern was, the project being inconsistent with the Comprehensive Plan, and urban sprawl. He stated that the case law did not support it. He spoke regarding Race Track Road, and on denial infringing on religious freedom. He stated that the land planner, Mr. Tocknell gave a statement that in his expert opinion that he was in support of the 17 findings of fact as proposed by the applicant, and he was probably sure that they were consistent with the application with the exception of number 17 which called for a legal conclusion and Mr. Tocknell was not a lawyer. He stated that they would like to call Mr. Tony Robbins and there was also a number of residents that would speak.

(7:14 p.m.) Anthony Robbins, Senior Planner for Prosser Hallock, gave his credentials. He stated that it was an inappropriate site. He spoke on spot zoning, *Exhibit F*,

surrounding PUD sites, the inconsistencies with the Comprehensive Plan, surrounding commercial sites, and the questionable scale and compatibility of the surrounding area. McCormack reviewed the time. Stevenson suggested continuing with Public Comment.

(7:28 p.m.) Kevin Oswandel, 1324 Wilshire Court South, spoke in opposition of the proposed development. He stated that he spoke for all the homes along Roberts Road and the Homeowner's Association. He introduced people from the Homeowner's Association.

(7:31 p.m.) Dawn Martin, 1744 Green Ridge Circle South, spoke in opposition utilizing the overhead and showing pictures of Roberts Road, *Exhibit G*.

(7:34 p.m.) Coleen Wood, 1540 Ansley Place, spoke in opposition of the PUD application, but did welcome the church. She voiced concerns about the lights and noise that the soccer field and parking lots would bring.

(7:38 p.m.) Kim Kendall, 856 Eagle Point Drive, spoke in opposition of the PUD, showing Roberts Road in three sections, all at the same time, *Exhibit H*. She stated that they tried their best to come up with other solutions.

(7:41 p.m.) Patience Kurtz, 1359 Roberts Road, spoke in opposition of the PUD. She reviewed the buildings that would be facing her property, with the building of the big complex, *Exhibit I*.

(7:43 p.m.) Jason Kurtz, 1359 Roberts Road, stated that he would not be speaking at that time.

(7:44 p.m.) Ellen Whitmer, 1178 Natures Hammock Road South, spoke on the Comprehensive Land Plan and the policy regarding rezoning, *Exhibit J*. She stated that she was not in favor of rezoning that piece of property from Open Rural to Planned Unit Development.

(7:48 p.m.) Robert Pradella, 1829 Autumn Brook Lane, spoke in opposition of the PUD, and on how dangerous it was for a vehicle to pull out onto Roberts Road.

(7:50 p.m.) Anthony Bentley, 1730 Callahan Street, Jacksonville, addressed the crime rate, values, and morals in St. Johns County.

(7:52 p.m.) Marci Skinner, 961 Lawhon Drive, Switzerland, voiced opposition to Hopewell PUD project at its proposed location, due to safety issues. She asked staff about widening Roberts Road.

(7:54 p.m.) George Gaskin, 1373 Roberts Road, spoke in opposition of the development and stated that Roberts Road was at its limit, as far as traffic was concerned.

(7:55 p.m.) Annmarie Abbatiello, 1133 River Birch Road, Fruit Cove, St. Johns, read a prepared statement from Al Abbatiello.

(7:57 p.m.) Phyllis Abbatiello, 1133 River Birch Rd., Fruit Cove, spoke in opposition, and stated that it would destroy the area, submitting photos, *Exhibit K*. She stated that they welcomed Hopewell, but not in that location.

(8:00 p.m.) Mary Joan Hinson, 1397 Roberts Road, Mill Creek Farm, stated that when they purchased their property in the 90's, they believed that they were moving into a

rural setting, free of commercial development, presenting photos, *Exhibit L*. (CD submitted). She requested that the Board deny the request.

(8:04 p.m.) Patricia Lawrence, 243 Stonewall Drive, spoke in support of the project because it would be an added value to any community.

(8:07 p.m.) Fred Hall, 1609 Rebecca Court, St. Johns, President of the Southcreek Homeowner's Association, presented petitions for denial, and spoke in opposition to the development, submitting photos, *Exhibit M*.

(8:16 p.m.) Shaun Miller, 520 Roberts Road, deferred his time.

(8:16 p.m.) Stuart Williams, 1242 Leith Hall Drive, asked the Board to approve the Hopewell project.

The meeting recessed at 8:18 p.m. and reconvened at 8:29 p.m.

(8:30 p.m.) Michelle Mecca, 8657 Bay Pine Road, Jacksonville, traffic engineer, Kimley-Horn and Associates, spoke on concurrency, the peak hour trips, and map, *Exhibit N*. She spoke on actual crash rates, pedestrians, and building sidewalks. Stevenson asked if her full traffic study was being introduced into evidence. Mecca replied that all they had done was the concurrency requirement, the Land Development Assessment, and that they would introduce it into evidence. Minor asked if the commercial element of the project would not be in operations during the week. Mecca replied that she couldn't speak to that and explained. Bryan asked, regarding the peak hour traffic itself, if the commercial component of it the commercial business itself, would dictate the number of peak hours, or if that was just a general rule she was using. Mecca responded that when doing concurrency, they had to make some generalized assumptions of what the land use would be. Bryan asked about the broad range of specialty stores that could apply. Lopez spoke on terms regarding specialty.

(8:47 p.m.) Lopez asked Michael Blackford how many County departments review a PUD application. He responded approximately 15 different departments. Lopez asked him to give a range of what those departments were. Blackford responded. Lopez asked if the departments had any outstanding comments, and Blackford replied no technical outstanding comments at that time. Lopez asked what it meant when all the technical staff had reviewed it, and had no outstanding comment. Blackford replied. Lopez asked if the PUD had to meet all permitting and all agency permitting before it could go forward. Blackford responded yes. Lopez asked if the application was asking for a Comprehensive Plan Amendment, drainage requirements, and submission of a pre-application. Blackford replied yes to all of the above. Stevenson stated that her question wasn't regarding what took place before the application, it was regarding the events before the acquisition, before they acquired the site, insight selection. Did they consider that they would have to get a rezoning to get those uses included that were so vital to their mission? Lopez replied that it was after the property was acquired, because she was not aware of what conversations, if any, other fellow professionals, on behalf of the church, had with County staff. Lopez displayed an excerpt from the second submittal from the Watts Planning Submittal. She stated that they addressed the architectural issue, and showed that the scale of building did not require a PUD. She asked what was allowed on the corner of Long Leaf and Roberts Road. Blackford responded that it was the area of the mixed use commerce center district. Bryan asked if when he was making that comment, if he was not speaking of that particular project and Roberts Road, but maybe in general terms setting a precedent throughout other parts of the County. Blackford stated that he thought it was more the nature of Roberts Road, and could result in the domino effect that once residents started a commercial

project that was approved, then all of a sudden there would be large, relatively underutilized properties, that were being used for rural uses. Bryan stated that if they were to approve something like that, it would in effect, be setting a precedent. Blackford replied yes. Mays mentioned that they would want to distinguish the difference between addressing County staff comments versus satisfying them.

(9:01 p.m.) Stevenson spoke on showing a scale, not necessarily showing an orientation to address traffic impacts and stacking. Blackford stated that there could be other elements in play that would cause the building to be relocated. Lopez asked Blackford if he was familiar with the public records request made to him, from her, in February. Blackford replied yes, and stated that she requested the projects in Residential-B land use that had commercial uses. Lopez mentioned that public records request was included in the clerk's record.

(9:04 p.m.) Paras Desai, Assistant County Attorney, asked Blackford about requirements being filled. Blackford responded no, because that would be reviewed during the construction phase. Desai asked what the allowed uses were per their PUD. Blackford replied retail uses, office uses, restaurants, gyms, etc. Desai asked about hours of operations. Blackford responded.

(9:06 p.m.) Lopez spoke on all the site design requirements being met, the church property's prior use, objection to finding of fact #17, sizes of the buildings being listed, and one of the neighbors raising issues regarding Loretta Road activities being moved to Roberts Road. She spoke on the Snyder decision. Lopez stated she had a rebuttal to Mr. Humphries' statement that there was a meeting at which the residents had offered compromises and settlement. McCormack stated that he didn't object to it, as long as Lopez stayed within the scope of what the direct testimony was. Stevenson stated that there were alternative sites and a resident had brought that forward also. McCormack stated, for the hearing, that he would rather allow due process, and if there were some brief questions, that it would be his advice to allow the questions. Lopez asked Wanchick about attending a certain meeting. McCormack stated that he would like to have a sidebar with Lopez, and asked for a ten minute recess.

The meeting recessed at 9:14 p.m. and reconvened at 9:20 p.m.

(9:20 p.m.) Lopez mentioned that they had found a way to resolve the issue without having Wanchick sworn in to testify. She stated that she was present at the meeting, would give her impression of it, and stated that at that particular April 2nd meeting she had brought with her a list of commercial uses that the church would be willing to limit. McCormack mentioned that Lopez believed, and it may be in the transcript, that Mr. Humphries had made a passing reference to a meeting. He stated that she could give her comment but was not permitted to quote anyone else. Lopez spoke on having a list of self limiting uses, a laundry list that staff covered that they were willing to exclude. She said the church was willing to listen to both staff and to the opponents regarding any concerns about specific uses, and would be more than happy to consider them. She mentioned that some of the citizens' concerns were with the church uses. McCormack recommended bringing the matter back to the Board. Bryan spoke on safety issues regarding Roberts Road. He voiced concern about traffic issues. Stevenson spoke on the schools in the area. She stated that she would like staff to show her the right-of-way in the area. She stated that it was not an area that they could easily fix, it was an area that had been worked around by numerous developments in the community, and she was very concerned about safety in the area. Minor spoke on the traffic on Roberts Road. Mays said to keep focused on what staff was talking about, the compatibility issue. He agreed that there was a major compatibility problem with commercial, and asked if the church would consider moving forward without the commercial.

(9:31 p.m.) Press Tompkins, County Engineer, spoke on the right-of-way using a map, *Exhibit P*. Stevenson asked about there being a pattern on the rest of the right-of-way, for widening an end of Roberts Road. Tompkins stated that the County had acquired additional right-of-way around 130 feet, over the years, on the north end, and on the south end they only had 55 and 60 feet. He stated that they currently did not have any plans to widen Roberts Road. Stevenson asked about them being allowed to use 117,000 square feet currently.

(9:33 p.m.) Phong Nguyen, Transportation Planning Manager, stated that they had concurrency for 65,900 square feet of church space, and 25,000 square feet of retail space. He stated that if they converted the 25,000 square feet of retail, they would have approximately 117,000 square feet of church space. Stevenson asked if that was what they were allowed without any change. Nguyen replied that the concurrency approval was contingent upon the approval of the PUD, so as long as the PUD was approved, the concurrency would be valid. Bryan asked if there was any specific professional business in mind, or if this was just speculation on some type of a business. Lopez responded on the way the text was written.

(9:37 p.m.) Pastor William replied that it would be offices for a dentist, florist, printing, or accounting. Sanchez spoke on them utilizing 117,000 square feet as a church, and that would mean that they would not be allowed any commercial.

(9:39 p.m.) Mays asked if they would be able to remove the commercial opponent of the PUD. Lopez responded that would be a question for the pastor, and they were looking to limit it. Pastor William replied that at that point, they would be willing to proceed. He stated that they spent a lot of time tweaking the commercial building, attempting to work along with the community, and would be willing to press forward. Bryan spoke on compromising. Miner asked the Pastor when he said press forward, if he meant he was not willing to remove the commercial. Pastor William stated that his desire would be to try to compromise, as far as what they could have in the commercial center. Bryan asked him, in order to compromise, if he would be willing to go back to list that they just addressed restricting it to only to attorney, dental, florist or something of that nature. Pastor William replied yes. Mays asked him for clarification, that he was willing to narrow it down, but not pull it out. Pastor William replied yes. Miner stated that they needed to figure it out so everyone could win. Bryan agreed. Stevenson spoke on the PUD on Race Track Road having both office and commercial in it. Stevenson expressed concern about access to the roadway for the commercial element in that PUD. Blackford responded. Stevenson stated that one of the reasons that she voted against that PUD was her concern about the quality of ingress and egress on that site. She spoke on site access, and different PUDs.

(9:52 p.m.) Miner commented on his idea of a compromise, i.e. removing the commercial all together. Sanchez stated that he had an issue with the commercial also. Bryan asked about what the commercial traffic was again.

(9:54 p.m.) Mecca replied that 25,000 feet would generate 33 p.m. peak hour trips and 37 p.m. peak hour trips for the church. Discussion followed on the church's hours of operation, the church's 220,000 square feet of land, maximum density, compatibility, and the safety issue.

(9:58 p.m.) Humphrey spoke on a strip mall, how it was easier to get an amendment on a PUD, the concurrency issue, and 934 parking spaces being actually 962 parking spaces. Humphries stated that the proposed PUD was incompatible for the surrounding neighborhood.

(10:06 p.m.) Lopez asked the Board to approve that application, stating that they had met everything required; Roberts Road was a County road, it had been reviewed for other projects that were approved along Roberts Road, as well as within the radius required for review, noted that PUD was a compromise tool, and would be willing to come up with an exact list, with staff, to build a good compromise with that PUD.

(10:08 p.m.) Whitehouse mentioned three things to be observed in a Quasi-judicial hearing; 1) afford the applicant procedure due process, 2) the Board must observe the essential requirements of law, and 3) the Board must support its findings with substantial competent evidence. He stated that he believed that they could make a motion either way based on the evidence that had been presented, and vote in that manner.

(10:10 p.m.) **Motion by Stevenson, seconded by Sanchez, to deny rezoning application PUD 2008-04, adopting findings of fact one through nine to support the motion.** Stevenson mentioned that she paid particular attention to Bob Pradella's testimony regarding traveling up and down Roberts Road many, many times and some of the safety concerns that he had raised. Bryan stated that the purpose of a PUD was for the community and individuals in opposition, and the ones that were applying, to come to some kind of an agreement. He stated that the primary concern was the commercial component generating additional traffic, causing a safety issue. He stated that the Church could proceed without having to go through the entire process. Whitehouse mentioned that the staff did evaluate the compromises, or the offers to limit the commercial, and staff also commented on whether any commercial would be compatible. Stevenson expressed appreciation to the community for looking for alternatives, that the community was not opposed to the church, and the Hopewell PUD concerns on traffic safety. Miner spoke on the commercial on Roberts Road being a huge safety concern. (10:15 p.m.) **The motion carried 5/0.**

(05/12/09 - 9 - 10:15 p.m.)
OTHER BUSINESS AS NECESSARY

There was none.

Motion by Sanchez, seconded by Bryan, carried 5/0, to adjourn the meeting. With there being no further business to come before the Board, the meeting adjourned at 10:16 p.m.

Approved July 21, 2009

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Cyndi Stevenson
Cyndi Stevenson, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By: Cherilyn Strickland
Deputy Clerk

