



SANTA ROSA COUNTY DEVELOPMENT SERVICES

6051 Old Bagdad Highway, Suite 202 | Milton, Florida 32583

BECKIE CATO
Planning and Zoning Director
beckiec@santarosa.fl.gov

RHONDA C. ROYALS
Building Official
rhondar@santarosa.fl.gov

TO: Board of County Commissioners

FROM: Shawn Ward, AICP, Long Range Planning Manager

THROUGH: Beckie Cato, AICP, Planning Director

SUBJECT: Conditional Use 2012-CU-017; City of Gulf Breeze

DATE: July 19, 2016

DISCUSSION

Discussion of enclosed request to revise the approval conditions for Conditional Use # 2012-CU-017 for the Tiger Point Wastewater Treatment Facility owned by the City of Gulf Breeze.

BACKGROUND

On December 13, 2012 the BOCC approved Conditional Use # 2012-CU-017 for the Tiger Point Wastewater Treatment Facility expansion owned by the City of Gulf Breeze.

The City's 2012 conditional use application was approved with 15 conditions. Of those, the City is proposing to retain conditions 1, 4, 12, and 13 and are asking that the other conditions be removed.

The applicant is requesting to keep the following conditions:

- 1) The Conditional Use is reduced from 46 acres to less than 15 acres.
- 4) The City of Gulf Breeze can commit to no commercial (i.e. private commercial operation like a gas station) on this property.
- 12) The City of Gulf Breeze commits to landscaping projects that shield the treatment facilities from the neighborhood, odor scrubbers and other upgrades as the new facilities are planned. They will consider a pedestrian path if one is desired as they indicated on draft plans.
- 13) The City of Gulf Breeze commits to addressing ANY odor issues immediately.

The applicant is requesting to remove the following conditions from their previous approval:

- 2) The new west course will be designed without a road from College Parkway to Maplewood.
- 3) The City of Gulf Breeze will not ask for approval to place a tower of any kind on this property. They have no plans for a tower of any kind on the Tiger Point Property.
- 5) The out of play areas will be heavily landscaped with native trees like pines and live oaks. (They (the City of Gulf Breeze) will work with a representative or representative committee from SRSH on plans for landscaping improvements.).
- 6) The City of Gulf Breeze is absolutely committed to restoring the back 9 on the west course and to rebuilding the front 9 holes on the west as well. (They will need to design these improvements and make a significant commitment of funds to make this happen. Unless they experience another catastrophe like Ivan or an oil spill resulting in a crash of the golf market,

we will have this project completed in 2-3 years. They will be happy to discuss plans and take input on the course layout from a representative or representative committee from SRSB.)

- 7) The reconstruction of the west course will probably result in all new or resurfaced cart paths.
- 8) The City of Gulf Breeze will evaluate the installation of lights on the driving range.
- 9) The City of Gulf Breeze will repair / replace existing fencing. (They will work with the HOA relative to plans for new fencing.)
- 10) The City of Gulf Breeze will do a better job maintaining the fence line from College Parkway around the front 9 holes.
- 11) The management group that operates the golf course will be directed to continue their "roundtable" meeting with the various owner groups and to include Santa Rosa Shores in this process.
- 14) The City of Gulf Breeze does not have any plans to sell off the driving range but they cannot legally commit to not selling it at some point if they have to from a financial stand point. However, they did commit to giving Paul Stagner first right of refusal on the property and would be interested in a potential lease back if they are forced to sell.
- 15) They have committed \$200,000.00 in funding for SRSB to use for neighborhood improvements. The funds are approved and available.

Next Steps

Upon approval by the board, the next stage of the planning process is the site plan review.



LETTER OF TRANSMITTAL

Table with 2 columns: Date (6/30/2016), Attention (Darliene Stanhope), RE (Conditional Use Submittal - CoGB), Bdi Project No. (20410.09)

INNOVATIVE INFRASTRUCTURE SOLUTIONS
449 WEST MAIN STREET
P.O. BOX 13370, PENSACOLA, FLORIDA 32591
(850) 438-9661 . FAX 433-6761

Santa Rosa County
Development Services
6051 Old Bagdad Hwy, Suite 202
Milton, FL 32583
Attn: Darliene Stanhope

WE ARE SENDING YOU [x] Attached [] Under separate cover via _____ the following items:
[] Shop Drawings [] Prints [] Plans [] Specifications

Table with 3 columns: COPIES, DATE, DESCRIPTION. Row 1: 1, , Conditional Use Application Packet

THESE ARE TRANSMITTED as checked below:

[] For approval [] For your use [] As requested [] For review/comment [x] For permitting

REMARKS _____

Please find the enclosed Conditional Use application with attachments.

The original mailing list package from the Property Appraiser's office is included.

This application is submitted by 6/30 in order to meet the deadline for the August 11 meeting at Tiger Point.

Please invoice CoGB for the application fee. Let me know if you have any questions.

Thank you!

COPY TO: _____

SIGNED [Signature]
James Anderson, P.E.



City of Gulf Breeze

June 30, 2016

Commissioner Lane Lynchard, Chairman
Santa Rosa County
6495 Caroline St, Suite M
Milton, FL 32570

Commissioner Rob Williamson
Santa Rosa County
6495 Caroline St, Suite M
Milton, FL 32570

Commissioner Robert A. "Bob" Cole
Santa Rosa County
6495 Caroline St, Suite M
Milton, FL 32570

Commissioner W.D. "Don" Salter
Santa Rosa County
6495 Caroline St, Suite M
Milton, FL 32570

Tony Gomillion, County Administrator
Santa Rosa County
6495 Caroline St, Suite M
Milton, FL 32570

Dear Commissioners Lynchard, Cole, Salter, Williamson, and Mr. Gomillion:

The purpose of this letter is to transmit to you a request by the City of Gulf Breeze to modify Conditional Use Permit 2012-CU-017. Attached for easy reference is the letter received by the City dated January 2, 2013, following a determination by the Board of County Commissioners relative to expansion of the City's wastewater treatment facility.

To briefly recap, a letter from David Smolker, an attorney representing the City, dated May 13, 2016, was sent to the County Commissioners. This letter outlined the reasons why most of the conditions listed in the January 2, 2013, letter do not or should not apply to our application.

In the material attached to this letter, you will find a restatement of the City's 2012 application which addresses the applicable portion of the County Code relative to operating utility facilities in a residentially zoned area. The City of Gulf Breeze will meet conditions established by the Board of County Commissioners to be necessary to mitigate the impacts of the expansion of the treatment plant.

Sincerely,

A handwritten signature in blue ink that reads "Edwin A. Eddy".

Edwin Eddy
City Manager

EAE:sdl

Enclosures

cc: Mayor and City Council
Michael J. Stebbins, City Attorney
Vernon L. Prather, Consultant

**SMOLKER BARTLETT LOEB
HINDS & SHEPPARD**

DAVID SMOLKER
davids@smolkerbartlett.com

May 13, 2016

Lane Lynchard
Chairman
6495 Caroline St, Suite M
Milton, FL 32570

W.D. "Don" Salter
6495 Caroline St,
Suite M
Milton, FL 32570

Jayer Williamson
Vice Chairman
6495 Caroline St, Suite M
Milton, FL 32570

Rob Williamson
6495 Caroline St,
Suite M
Milton, FL 32570

Robert A. "Bob" Cole
6495 Caroline St, Suite M
Milton, FL 32570

RE: Conditions of Approval/Tiger Point WWTP Conditional Use

Dear County Commissioners:

We have been retained by the City to advise it as to certain conditions of approval imposed by the County in connection with its approval of Conditional Use Application 2012-CU-017 authorizing expansion of the Tiger Point Wastewater Treatment Plant. Since adoption of the conditions, the City has determined that certain of the conditions are not reasonable, practical or enforceable, and is requesting that the County concur in this determination and direct its staff to work with the City staff in developing modifications to the Conditional Use permit such that any conditions relate to mitigating the impact of the waste water treatment plant expansion.

FACTUAL BACKGROUND:

I. The Need to Expand the City's Wastewater Treatment and Disposal Capacity.

The City operates a water and wastewater utility which provides wastewater services both in the City and in parts of unincorporated Santa Rosa County. A number of years ago, the City determined that it needed to expand its existing wastewater treatment capacity due to Department of Environmental Protection ("DEP") requirements and, correspondingly, purchased and obtained all necessary permits to use property on Bergren Road for such purposes. As you are aware, in 2012 the City determined that it would be far more economical for its utility customers to acquire the Tiger

Point Golf Course and expand its existing wastewater treatment plant located adjacent to the inactive, non-operational west golf course (“West Course”). It is estimated by expanding the existing Tiger Point treatment facility instead of constructing (and staffing) a new treatment facility in the Bergren Road neighborhood, the City’s utility customers will save approximately \$22,000,000. Therefore, in October 2012, the City sought and obtained from Santa Rosa County a Conditional Use to expand the existing Tiger Point wastewater treatment plant onto a part of the West Course and acquired the Tiger Point Golf Course.

II. Timing of Additional Wastewater Treatment Capacity.

As you also may be aware, DEP requires annually that the City complete a capacity analysis to determine the date by which the additional treatment capacity will be needed. Heretofore, that analysis was largely based on projected customer growth. Analysis in recent years indicated that the additional treatment capacity would not need to be “on line” until sometime in the year 2022. Thus, the City had thought that it had ample time to plan for design and construction of the facilities needed for the additional capacity. However, new interpretations this year of the DEP regulations have resulted in DEP concluding in the last few weeks that the additional wastewater treatment capacity will be needed by January 1, 2020.

The new DEP regulatory interpretation has necessitated that the City expedite its schedule for bringing on-line the additional treatment capacity. This matter was evaluated by the South Santa Rosa Utility System Board (“SSRUS”) (a majority of who live in unincorporated south Santa Rosa County) at its meeting a couple weeks ago and they unanimously agreed to the following revised schedule. Working backwards from the DEP-imposed deadline for availability of additional capacity, the Board concluded that all plans and design must be completed by January 1, 2018, in order to allow sufficient time for permitting, preparation of bid documents, undertaking the process of soliciting and evaluating proposals and selecting a contractor, contracting with construction contractor, possible protest and related complications, and construction. The SSRUS Board also determined that at least one year must be allotted for design of the improvements (including preparation of request for proposals, evaluation of proposals, contracting with design engineers, and design of the facilities), thus the design phase must be commenced no later than January 1, 2017.

Consequently, the SSRUS Board unanimously recommended that a final decision as to the location of the facilities for the additional treatment capacity be made by September 1, 2016, - just over four months from now. Thus, time is now of the essence to reach an immediate resolution for the location of the new facility.

III. Expansion of Tiger Point Treatment Facility.

The Conditional Use was obtained because the County’s zoning required that wastewater treatment plants be approved as conditional uses in Single Family Residential and Mixed Residential Subdivision zoning districts. At the time the Conditional Use was being considered, many residents with homes on the golf course objected to the request and applied political pressure on the County to

deny the expansion. This resulted in the various conditions of approval being imposed in the conditional use permit issued to the City. While the City believes that the conditions set forth in paragraph nos. 1, 4, 12 and 13 of the conditional use permit are appropriate, it believes that the remaining conditions set forth below are not proper:

2. The new west course will be designed without a road from College Parkway to Maplewood.
3. The City of Gulf Breeze will not ask for approval to place a tower of any kind on this property. They have no plans for a tower of any kind on the Tiger Point property.
* * *
5. The out of play areas will be heavily landscaped with native trees like pines and live oaks. (They (the City of Gulf Breeze) will work with a representative or representative committee from SRSB on plans for landscaping improvements.)
6. The [City] is absolutely committed to restoring the back 9 on the west course and the rebuilding the front 9 holes on the west as well. ([The City] will need to design these improvements and make a significant commitment of funds to make this happen. Unless [the City] experience[s] another catastrophe like Ivan or an oil spill resulting in a crash of the golf market, we will have this project completed in 2-3 years. [The City] will be happy to discuss plans and take input on the course layout from a representative or representative committee from SRSB.)]
7. The reconstruction of the west course will probably result in all new or resurfaced cart paths.
8. The City of Gulf Breeze will evaluate the installation of lights on the driving range.
9. The City of Gulf Breeze will repair/replace existing fencing. (They will work with the HOA relative to plans for new fencing.)
10. The City of Gulf Breeze will do a better job of maintaining the fence line from College Parkway around the front 9 holes.
11. The management group that operates the golf course will be directed to continue their "roundtable" meeting with the various owner groups and to include Santa Rosa Shores in this process.
* * *
14. The City of Gulf Breeze does not have any plans to sell off the driving range but they cannot legally commit to not selling it at some point if they have to from a financial stand point. However, they did commit to giving Paul Stagner first right of refusal on the property and would be interested in a potential lease back if they are forced to sell.

15. The City of Gulf Breeze has committed \$200,000.00 in funding for SRSB to use for neighborhood improvements. The funds are approved and available.

The problematic conditions fall into two categories: (1) conditions directly related to mitigating potential impacts of the plant expansion and (2) conditions having little or no relationship to such potential impacts.

LEGAL ANALYSIS:

I. Lack of Enforceability of the Conditions

Generally, when one governmental entity proposes action that may be contrary to the zoning of another public entity, the courts apply a “balancing of the public interest” test in deciding which of the two competing government should prevail. *Pal-Mar Water Management District v. Martin County*, 377 So. 2d 752, 754 (Fla. 4th DCA 1979) citing *Hillsborough Ass’n, etc. v. City of Temple Terrace*, 332 So. 2d 610 (Fla. 1976). Should the City resist a County attempt to enforce the conditions, a court balancing the public interests involved is likely to conclude that the City’s interest in providing expanded wastewater treatment services to both City and some County residents outweighs the County’s interest in the various conditions, especially those unrelated to the impact of the plant expansion.

II. Lack of Enforceability of Conditions Unrelated to Potential Impact of Plant Expansion

Conditions 6 and 7 are, of course, the most concerning. Those conditions purport to require reconstruction of the West Course and, consequently, clearly violate the U.S. Supreme Court’s “unconstitutional conditions” doctrine which prohibits government from requiring a person to give up a constitutional right to receive compensation when property, such as land, improvements or money, is taken for a public use in exchange for a discretionary benefit conferred by the government where the benefit sought has little or no relationship to the property taken. *Nollan v. California Coastal Com’n*, 483 U.S. 825 (1987); *Dolan v. City of Tigard*, 512 U.S. 374, 385 (1994); *Koontz v. St. Johns River Water Management District*, 133 S. Ct. 2586 (2013). The doctrine also prohibits the government from singling out a landowner to bear the burden of governmental problems the landowner has not contributed to more than other similarly situated landowners. *Nollan*, 483 U.S. 825, 836, n. 4. Government can impose an exaction only if: (1) the exaction serves the same purposes that would otherwise justify an outright developmental ban; and (2) is “roughly proportionate” to the impact of the development. The government must make an individualized determination that the required exaction is related both in nature and extent to these impacts. *See* 483 U.S. at 837; 512 U.S. at 390-91, 395-96. Florida courts apply the *Nollan/Dolan* test to adjudicatory exactions requiring dedication of land and improvements. *St. Johns River Water Management District v. Koontz*, 77 So. 3d 1220 (Fla. 2011); *Sarasota Cty. v. Taylor Woodrow Homes Ltd.*, 652 So. 2d 1247 (Fla. 2d DCA 1995) (land and utility improvements); *New Testament Baptist Church Inc. of Miami v. State, Dep’t of Transp.*, 993 So. 2d 112, 115 (Fla. 4th DCA 2008) (land); *Paradyne*

Corp. v. Florida Dept. of Transp., 528 So. 2d 921 (Fla. 1st DCA 1988) (shared driveway access); *Florida Dept. of Transp. v. Heckman*, 644 So. 2d 527 (Fla. 4th DCA 1994) (land).

Here, conditions 6-7 have neither an essential nexus with, nor rough proportionality to the expansion of the existing wastewater treatment plant. Reconstruction of the West Course for the enjoyment and leisure of golfers does not serve the same governmental interest as providing wastewater treatment and disposal or mitigating the potential impacts therefrom. Clearly, the County could not have denied the City's conditional use request because of the failure to provide public golfing opportunities. Secondly, there is no "rough proportionality" between the impacts of the expansion and the golf course reconstruction requirement. There is no reasonable connection between the requirement that the City reconstruct the West Course and the impact of the wastewater treatment plant expansion. *See generally Koontz v. St. Johns River Water Mgmt. Dist.*, 133 S. Ct. 2586 (2013) (United States Supreme Court finding that requiring a developer to fund offsite mitigation projects miles away from the proposed development site as a condition of approving a land-use permit did not pass muster under *Nollan/Dolan*). Moreover, nothing in the conditions suggests that the County made the individualized determination that the reconstruction and operation of the West Course was related both in nature and extent to the impact of the expansion of the wastewater treatment plant. As conditions 6-7 do not meet either test, they are unconstitutional under the Federal Constitution.

Conditions 6-7 also violate Florida's "dual rational nexus" test requiring that there be a reasonable connection between the required dedication of land and the anticipated needs of the community because of the new development. *Lee Cty. v. New Testament Baptist Church of Fort Myers, Fla., Inc.*, 507 So. 2d 626, 629 (Fla. 2d DCA 1987); *See also, Hernando Cty. v. Budget Inns of Florida, Inc.*, 555 So. 2d 1319, 1320 (Fla. 5th DCA 1990). As discussed, there is simply no reasonable connection or rational nexus between the need to reconstruct and operate the West Course and the impact of the expansion of the wastewater treatment plant on the surrounding area.

Conditions 3, 5, 8-10, 11 and 14 all are completely unrelated to the potential impacts of the treatment plant expansion as is further discussed below and are therefore arbitrary.

Condition 3 purports to prohibit the City from asking for approval of a tower. This condition is arbitrary because it may be necessary to install such tower in the future. Future City Councils cannot be prohibited from taking such actions on City property should the City's interest in doing so outweigh the County's aesthetic interest in preventing such a tower.

Condition 5 requiring landscaping of out of play areas is likewise arbitrary to the extent applicable to areas beyond the immediate area adjacent to the treatment plant. Replacing native trees destroyed by previous hurricanes in areas beyond the treatment plant area has no relationship to potential impacts of the plant expansion on the surrounding area.

Conditions 8-10 requiring evaluation of lights on the driving range and repair, replacement or maintenance of fencing are completely unrelated to the impacts of the plant expansion, and, therefore, are arbitrary.

Condition 11 is likewise arbitrary as it has nothing to do with the potential impact of the plant expansion on the surrounding area.

Finally, condition 14 attempting to limit the ability of the City to sell the driving range and requiring the City to give an individual a first right of refusal is arbitrary because it is completely unrelated to the potential impact of the plant expansion on the surrounding area. Moreover, it arguably amounts to an unreasonable restraint on alienation.

III. Lack of Enforceability of Conditions Directly Related to Potential Impact of Plant Expansion

Condition 2 states that the West Course will be designed without a road from College Parkway to Maplewood. This condition was imposed due to political pressure from residents, not because it is in the public interest. In fact, the road will serve the public interest by reducing treatment plant related traffic on local subdivision streets. As such, it is arbitrary.

Condition 15 states that the City has committed \$200,000 to SRSB to use for neighborhood improvements. This offer to fund was intended to mitigate potential impacts from the plant expansion on the surrounding neighborhood; not for general neighborhood improvements unrelated to impacts of the plant expansion. Moreover, because of time constraints the City was operating under at the time, the specific neighborhood improvements were not identified. Thus, the condition calls for use of the funds by a private entity without identifying the improvements to be made nor ensuring that the funds are used for its intended purposes. As such, it is arbitrary.

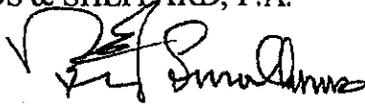
For all of these reasons, the City hereby respectfully requests Santa Rosa County to modify the Conditional Use approval to delete the above-referenced conditions. In connection therewith, please know that the City is amenable to including in the permit additional conditions that directly relate to mitigating potential impacts of the plant expansion and have appropriate proportionality to the relationship to the plant expansion's contribution toward those impacts.

Therefore, the City Manager will be contacting the County Administrator to set up a meeting with their respective planning/zoning staffs to work on a modifying and adding new conditions. It is our sincere hope that we can reach agreement as to your and your staff colleagues' recommendation to the Board of County Commissioners on our proposed conditional use modifications. In light of the very short time period that remains for achieving a resolution, we respectfully ask that you please give this matter your urgent attention.

We look forward to hearing from you. I remain

Very Truly Yours,

SMOLKER BARTLETT LOEB
HINDS & SHEPPARD, P.A.



By: _____

David Smolker

Cc. Tony Gomillion
County Administrator
6495 Caroline St, Suite M
Milton, FL 32570

Roy V. Andrews
County Attorney
6495 Caroline St, Suite M
Milton, FL 32570

Edwin Eddy (via e-mail only eaeddy@gulfbreezefl.gov)
Matt Dannheisser (via e-mail only mdannheisser@dannheisserlaw.com)
Michael J. Stebbins, P.L. (via email only mjsteb@bellsouth.net)



Beckie Cato, AICP
Planning and Zoning Director

Development Services

Tony Gomillion
Public Service Director



Rhonda C. Royals
Building Official

January 2, 2013

City of Gulf Breeze
Buzz Eddy or Thomas Lambert, P.E.
1070 Shoreline Drive
Gulf Breeze, FL 32561

Re: Conditional Use Application 2012-CU-017

Dear Sirs,

The Santa Rosa County Board of County Commissioners (BOCC) made the following determinations at their meeting held on December 13, 2012, for the property located at 1170 Circle Lane, Gulf Breeze, Florida, and identified as parcel numbers 31-25-28-0000-02900-0000 & 32-25-28-0000-00400-0000:

The Conditional Use, as presented at the meeting, to allow the expansion of a wastewater treatment facility (public utilities) to be located within an R1 zoning district has been approved with conditions to include the following:

- 1) The conditional use is reduced from 46 to less than 15 acres.
- 2) The new west course will be designed without a road from College Parkway to Maplewood.
- 3) The City of Gulf Breeze will not ask for approval to place a tower of any kind on this property. They have no plans for a tower of any kind on the Tiger Point property.
- 4) The City of Gulf Breeze can commit to no commercial (i.e. private commercial operation like a gas station) on this property.
- 5) The out of play areas will be heavily landscaped with native trees like pines and live oaks. (They (the City of Gulf Breeze) will work with a representative or representative committee from SRSH on plans for landscaping improvements.)
- 6) The City of Gulf Breeze is absolutely committed to restoring the back 9 on the west course and to rebuilding the front 9 holes on the west as well. (They will need to design these improvements and make a significant commitment of funds to make this happen. Unless they experience another catastrophe like Ivan or an oil spill resulting in a crash of the golf market, we will have this project completed in 2-3 years. They will be happy to discuss plans and take input on the course layout from a representative or representative committee from SRSH.)
- 7) The reconstruction of the west course will probably result in all new or resurfaced cart paths.
- 8) The City of Gulf Breeze will evaluate the installation of lights on the driving range.
- 9) The City of Gulf Breeze will repair / replace existing fencing. (They will work with the HOA relative to plans for new fencing.)
- 10) The City of Gulf Breeze will do a better job maintaining the fence line from College Parkway around the front 9 holes.
- 11) The management group that operates the golf course will be directed to continue their "roundtable" meeting with the various owner groups and to include Santa Rosa Shores in this process.
- 12) The City of Gulf Breeze commits to landscaping projects that shield the treatment facilities from the neighborhood, odor scrubbers and other upgrades as the new facilities are planned. They will consider a pedestrian path if one is desired as we indicated on the draft plans.

Santa Rosa County Public Service Complex
6051 Old Bagdad Highway, Suite 202 Milton, Florida 32583
www.santarosa.fl.gov
Office: (850) 981-7000

Inspections/Compliance Division Fax: (850) 623-1208 • Planning/Zoning Division Fax: (850) 981-7000



- 13) The City of Gulf Breeze commits to addressing ANY odor issues immediately. They were cleaning, repairing, and upgrading a portion of the treatment facility this past year which took about 8 -10 months. They said that we shouldn't smell any odors at this point. If any residents do smell odors, we need to report it IMMEDIATELY so they can diagnose the issue.
- 14) The City of Gulf Breeze does not have any plans to sell off the driving range but they cannot legally commit to not selling it at some point if they have to from a financial stand point. However, they did commit to giving Paul Stagner first right of refusal on the property and would be interested in a potential lease back if they are forced to sell.
- 15) The City of Gulf Breeze has committed \$200,000.00 in funding for SRSB to use for neighborhood improvements. The funds are approved and available.

Determinations made by the Santa Rosa County Board of Commissioners (BOCC) shall be valid for a period not to exceed thirty-six (36) months and must, therefore, be used by the applicant within the said thirty-six (36) month period per Santa Rosa County Land Development Code Ordinance No. 91-24, Article 2.04.03.

The next stage of the planning process is the site plan review. A site plan application is enclosed for your convenience. For more information regarding the site plan process, please contact me at 850-981-7086. Also, please remove the public hearing sign from the property.

Regards,

Leslie Statler
Planner III

LS/lm

File

Tony Gomillion, Public Service Director



Edwin Eddy <eaeddy@gulfbreezefl.gov>

FW:**Tony Gomillion** <TonyG@santarosa.fl.gov>

Fri, May 20, 2016 at 1:13 PM

To: "Buzz Eddy (eaeddy@ci.gulf-breeze.fl.us)" <eaeddy@ci.gulf-breeze.fl.us>

Buz,

Let us know when you desire to meet with our planning staff to schedule this for hearing. If you are desiring for this to be heard at the June BOCC rezoning meeting, you would essentially need to have the package together by the end of the month or first few days of June. The mailing labels and mailings for the 500' notification need to be accomplished the first week of June.

Tony Gomillion

Santa Rosa County Administrator

6495 Caroline Street, Suite M | Milton, Florida 32570

P: 850.983.1855 | F: 850.983.1856

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Help us improve our customer service with this short survey.

From: Wanda Pitts**Sent:** Monday, May 16, 2016 10:48 AM**To:** Board of County Commissioners <BCC@santarosa.fl.gov>**Cc:** Roy Andrews <RoyA@santarosa.fl.gov>; Tony Gomillion <TonyG@santarosa.fl.gov>**Subject:**

Dear Commissioners:

We received the attached letter today from Attorney David Smolker regarding the above-referenced matter. A hard copy has been placed in your inbox.

Wanda C. Pitts

Santa Rosa County Attorney's Office

6495 Caroline Street, Suite C | Milton, Florida 32570

P: 850.983.1925 | F: 850.983.1856

Santarosa.fl.gov | Facebook | Twitter | Instagram

Florida has a very broad Public Records Law. Virtually all written communications to or from Santa Rosa County Personnel are public records available to the public and media upon request. E-mail sent or received on the county system will be considered public and will only be withheld from disclosure if deemed confidential pursuant to State Law.

Florida has a very broad public records law. Under Florida law, both the content of emails and email addresses are public records. If you do not want the content of your email or your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in person.



LETTER FROM ATTORNEYS - re Tiger Point Conditions of Approval - recd 05-16-2016.pdf

787K



Beckie Cato, AICP
Planning and Zoning Director

Santa Rosa County Development Services

Santa Rosa County Public Service Complex
6051 Old Bagdad Highway, Suite 202 Milton, Florida 32583
www.santarosa.fl.gov
Office: (850) 981-7000



Rhonda C. Royals
Building Official

MODIFIED Conditional Use Application

*Application Instructions begin on Page 4

** For Official Use Only **	
Application No. _____ -CU- _____	Date Received: _____
Review Fee: _____	Receipt No.: _____
Zoning District: _____	Conditional Use Request: 6.09.02. _____
FLUM Designation: _____	

Property

Owner Property Owner Name: CITY OF GULF BREEZE

Address: 1070 SHORELINE DRIVE

GULF BREEZE, FL 32561

Phone: 850-934-5100 Fax: 850-934-5114

Email: eaeddy@gulfbreezefl.gov or vprather@gulfbreezefl.gov

Applicant

Check here and skip this section if the applicant is the Property Owner. Otherwise, complete this section and provide authorization from the Property Owner giving the Applicant the authority to pursue conditional use approvals.

Company: _____

Contact Name: _____

Address: _____

Phone: _____ Fax: _____

Email: _____

Property Information

Parcel ID Number(s): _____

-OR-

Street Address of property for which the Conditional Use is requested:

Parcel Size (acres): _____

Conditional Use Request Please describe the requested conditional use. Attach a site plan showing the proposed development in as much detail as necessary to demonstrate that your request meets the criteria found in Section 6.09.02 (attached).

Modification to Conditional Use Permit Number 2012-CU-017 allowing for expansion of Tiger Point Waste Water Treatment Plant onto adjacent City owned parcel. (See attached narrative)

Conditional Use Criteria I understand that all decisions made by the Zoning Board of Adjustments are subject to appeal and that their decision does not become effective until the appeal time has successfully passed.

Yes No

I understand that approval by the Zoning Board of Adjustments does not authorize construction and/or land clearing to occur on this site and that additional approvals and Building Permits may be required.

Yes No

I understand that determinations by the Zoning Board of Adjustments are valid for 36 months.

Yes No

Please read the attached conditional use information pertaining to your request and describe how your request meets the pertinent criteria. Attach additional sheets if necessary. _____

SEE ATTACHED NARRATIVE

Certification and Authorization

By my signature hereto, I do hereby certify that the information contained in this application and the required supplemental materials is true and correct, and understand that deliberate misrepresentation of such information will be grounds for denial or reversal of this application and/or revocation of any approval based upon this application. I do hereby authorize County staff to enter upon my property at any reasonable time for purposes of site inspection.

Edwin A. Eddy

Applicant Name (Type or Print)

City Manager

Title (if applicable)



Applicant Signature

06/30/2016

Date

To: Santa Rosa County Planning and Zoning

From: James Anderson, P.E.

Date: June 20, 2016

Subject: Conditional Use Narrative

Proj. No.: 20401.01

6.09.00 CONDITIONAL USES

6.09.01 General Provisions Regulating Conditional Uses: A conditional use shall be reviewed by the Zoning Board of Adjustment and a recommendation for approval made to the Board of County Commissioners provided the Board finds that the use:

A. Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected;

Wastewater treatment facilities must be built to strict Florida Department of Environmental Protection rules which are designed to ensure no spills, built-in redundancy, and 24 hour per day monitoring. These criteria protect public health, safety, and welfare.

Nuisance odors are typically associated with older facilities. The future facilities proposed for this site will be state-of-the-art. Odor can emanate from the head works of a treatment facility and a digester, therefore it is anticipated that future headworks and digesters will remain within the area of the existing wastewater treatment plant, thus away from any additional residents.

The proposed expansion to the existing wastewater treatment plant will be located adjacent to the existing wastewater treatment facility on property formerly used as a golf course. Refer to **Figure 1** attached for an overview of the property and proposed improvements. Natural buffers will remain and be enhanced so that the facility is masked to the adjacent properties. A 100' setback containing vegetative buffer from any utility use whatsoever would further protect adjacent property owners from disturbance.

Public welfare will additionally be served financially by avoiding unnecessary expenditure of public ratepayer funds. The savings from expanding the facility at its current location versus locating at an alternate location would be in the millions of dollars, in the form of:

- Continued utilization of the assets at the existing Tiger Point facility
- Avoidance of capital costs from construction of new treatment works at an alternative site
- Avoidance of capital costs for pipelines to carry collected wastewater to and treated wastewater from a new site
- Avoidance of costs for electrical service development at an alternative site

- Ability to utilize an alternative treatment plant site in another fashion or liquidate the site completely from public ownership

B. Will not unduly adversely affect other property in the impacted area which it is located;

As stated above, the facility will be landscaped and designed such that the buffers provided will minimize the impact of the facility both to sight and noise. The areas that may contribute to periodic odors will be designed as far away as practicable from the property boundaries to minimize the potential detection of odors on outside parcels.

Any additional traffic to the site would be incremental and based on higher flow rates as the facility is expanded. Future plant access to the Tiger Point facility would be through a new direct driveway to the site which will virtually eliminate vehicular traffic to the facility through two residential areas.

C. Is consistent with the Goals, Objectives, and Policies of the Santa Rosa County Comprehensive Plan;

The proposed expansion of the existing Tiger Point facility is consistent with the goals of the Santa Rosa County Comprehensive Plan. The goal, objective, and policy portions of the Comprehensive Plan specific to wastewater and the proposed Conditional Use are provided in *italics* below:

Goal 4.1 • The provision of an environmentally safe and efficient wastewater collection, treatment and disposal system.

The environmental safety of an expanded plant is previously discussed in item 'A' above. Improved efficiency of collection, treatment and disposal is achieved by expanding existing facilities such that existing mains can be used for collecting wastewater and transferring reclaimed water as opposed to construction of new mains to serve a new facility in a different location.

Objective 4.1.A • To integrate the County's long range land use planning program with the provision of centralized wastewater within the County.

The proposed expansion of the existing Tiger Point facility would further the goal of centralized water reclamation as opposed to providing for expansion through construction of an additional, separate facility.

Policy 4.1.A.3 • The County Development Services Department shall continue to prepare the annual Utility Operational Status Report as required by Ordinance No. 2001-03. The purpose of this report is to provide the Board of County Commissioners with an opportunity to annually monitor the capacities of the utility systems operating within the County. According to the Ordinance, each utility is to survey present operations and determine its capacity to meet present needs and projected future needs for a period of not less than ten years.

The most recently completed Capacity Analysis Report for the FDEP indicates that a facility expansion or a new facility is required approximately around the year 2020. Expansion of the existing facility is the most cost-effective and expedient way to increase treatment capacity.

Objective 4.1.B • Ensure, to the maximum extent possible, that extensions of sanitary sewer collection lines and increases in capacity of sewage treatment facilities (if any) will occur in a manner that will meet future development needs.

The most recently completed Capacity Analysis Report for the FDEP indicates that a facility expansion or a new facility is required approximately around the year 2020. Expansion of the existing facility is the most cost-effective and expedient way to increase treatment capacity.

Policy 4.1.B.4 • The maintenance and operation of sewer facilities shall be funded, predominantly, by user fees or special assessments.

Ratepayers are the primary funding source for operations, maintenance, and capital improvements to the existing wastewater system. Expansion of the existing Tiger Point facility will save ratepayers millions of dollars over construction of a new facility and the associated mains required to service a new facility in a different location.

Policy 4.1.B.5 • The County shall continue to cooperate with other governmental agencies and the utilities, as appropriate, in order to provide for additional property and techniques such as reuse and rapid infiltration basins for the disposal of wastewater treatment plan effluent.

If the goal of this policy is to “provide for additional property” as required for facility expansions, then the proposed Conditional Use clearly meets this policy intent.

D. Satisfies criteria stipulated for similar uses as described in the following section.

6.09.02 Criteria Regulating Conditional Uses: All approved conditional uses shall be developed and maintained as approved by the Board of County Commissioners as applicable. Failure to do so shall constitute a violation of this ordinance. In addition to the general provisions cited above, a conditional use shall be permitted by the Board of County Commissioners provided the Board finds that the proposed conditional use complies with the following requirements:

J. Public and Private Utilities and Public Facilities (AG-RR, AG-1, AG-2, ER, RR-1, R-1, R-1A, R-1M, R-2, R-2M, R-3, NC, HCD, PID and C-1M)

1. The location of such facility shall be situated on a site providing the most effective service to such area. The applicant shall demonstrate that such proposed sites are located effectively relative to the service area and that the site proposed is at least equal to the effectiveness of other alternative sites.

The existing treatment facility is centrally located within the service area. **Figure 2** is a map of the service area. The Tiger Point plant is centrally located to the utility service area.

In 2005, the City of Gulf Breeze obtained a Conditional Use (2005-CU-022) allowing the construction of a wastewater treatment facility on the eastern side of the service area off Bergren Road. At the time, the existing Tiger Point facility could not be expanded due to land limitations. With the availability of the proposed 12.3-ac Conditional Use area adjacent to the existing facility, it is much more feasible and economical to expand upon the existing plant as opposed to trying to staff and operate two plants. Plant expansions mean that the system infrastructure does not have to be modified and expanded for connections to a second plant. This results in reduced construction impacts on the residents and users of the wastewater infrastructure.

By updating and expanding the existing facility, we can effectively serve the wastewater treatment needs for the service area build-out at a fraction of the previously estimated cost. Reduced costs for the utility translates to reduced costs for every new homeowner, existing commercial and residential ratepayers as well as schools, churches, and government agencies.

2. The location of such facility shall not unreasonably increase traffic on streets in the impacted area.

The facility is manned 16 hours per day, 7 days per week, but has few employees and deliveries. The wastewater treatment plant’s current daily trip count through the residential area around the existing plant would be virtually eliminated through the addition of a new plant entrance at College Parkway and Santa Rosa Drive.

3. The scale, intensity and operation of the use shall not generate unreasonable noise, traffic, congestion or other potential nuisances or hazards to contiguous residential properties.

The facility will be configured so that the minimal noise, lighting and odor generated are away from the property boundaries. Additionally, the 100' setback with landscaped buffer shall be such that it inhibits the propagation of noise, light, and odor.

4. General office facilities of a utility shall be located in commercial districts.

This application does not include general office facilities.

5. County facilities shall be allowed in any district.

Not applicable as this is not a County facility.

6. There shall be no time limit placed upon the approval of the Board of Adjustments for public and private utilities.

While no formal timeline is proposed for the approval of this Conditional Use application, as noted above, the most recently completed Capacity Analysis Report for the FDEP indicates that a facility expansion or a new facility is required approximately around the year 2020. Expansion of the existing facility is the most cost-effective and expedient way to increase treatment capacity for the utility service area.

7. No height variance is required for a conditional use approval for a water tower.

No elevated water tower is proposed in this application.



SCALE: 1"=100'

0 5

Vegetative Screening for the Wastewater Treatment Site

Tiger Point
June 27, 2016

Task: Screen the Effluent Storage facility from the residences on Maplewood Drive and Cypress Lane. Use vegetation and potentially earthen berms to provide both a visual and noise barrier – although in this immediate area the only proposed use is for storage of treated effluent, no mechanical equipment use.

Proposed Buffer: The buffer consists of a drainage conveyance by means of an open channel, approximately 40 feet wide adjacent to the existing residential homes. This channel has some vegetation – although several exotic invasive species are included in the area, most common being Chinese tallow – popcorn tree, *Sapium sabiferum*. These exotics should be removed, along with any vegetation affecting the function of the open channel.

The remainder of the buffer, 60 feet wide, should be planted with at least two species:

1. **Silverthorn** – *Eleagnus pungens*, an evergreen shrub with very few pest problems. Silverthorn is salt and wind tolerant, enjoys full sun, and a high groundwater. See the attached description from the University of Florida, Institute for Food and Agricultural Sciences.

Suggest silverthorn be planted at 6 foot centers, with 4 foot plants. Silverthorn is quick growing and can be expected to mature to an untrimmed hedge of 15 feet in height and 10 foot in width in approximately 3 years. After 5 years, if cannot be easily penetrated by a pedestrian. At that point, trimming the hedge can prove a very major project, requiring construction equipment to reach and remove cut branches.

2. **Japanese Black Pine** – *Pinus thunbergiana*, a small tree that holds its branches low, and is a thick evergreen. It takes wind and salt conditions well, has very few pests, and will tolerate a high groundwater.

Black Pine is a quick grower, and will reach a height of 25 feet and a similar width. Planted in a hedge, triangular at 20 feet on center, triangular, the trees will provide a second nearly impenetrable buffer.

Both hedges should be very low maintenance once established. With the silverthorn hedge planted 15 feet from the 40-foot wide area of the open channel, and allowing a width of 15 feet – and the Black Pine planted 30-feet from the centerline of the Silverthorn hedge, the entire buffer of 100 feet should be filled after 5 years of growth.



Silverthorn

Silverthorn is a large, fast-growing shrub that's sometimes planted in hedges or along highways, since it quickly makes a dense screen.

The plant gets its name from the thorn-like spikes found along its stems. In the spring, silverthorn blooms with tiny but fragrant flowers that smell like gardenias, which is why some people like this plant. It's also tolerant of salt spray and has good drought tolerance.

The plant does have some drawbacks. These sprawling shrubs can reach fifteen feet tall and twenty feet wide. They also put up tentacle-like shoots that can quickly overtake neighboring trees and shrubs. The Florida Exotic Pest Plant Council considers this plant a Category II invasive exotic species. This means silverthorn has the *potential* to cause ecological damage.

As a result, you should plant silverthorn with caution, since it can quickly take over areas if left unpruned. Or look for compact varieties that will require less pruning.

UF/IFAS Sites

Silverthorn, *Elaeagnus pungens* (<http://plants.ifas.ufl.edu/node/653>)

UF/IFAS Publications

Elaeagnus pungens, Silverthorn
(http://lee.ifas.ufl.edu/Hort/GardenPubsAZ/Elaeagnus_Pungens.pdf) (PDF)



Silverthorn (*Elaeagnus Pungens*). Lee County Extension, UF/IFAS.
(http://lee.ifas.ufl.edu/Hort/GardenPubsAZ/Elaeagnus_Pungens.pdf)

Pinus thunbergiana: Japanese Black Pine¹

3

Edward F. Gilman and Dennis G. Watson²

Introduction

An excellent, small, irregularly-shaped Pine, the size and shape of Japanese Black Pine is variable reaching a height of 25 feet and a spread of 20 to 35 feet. The exceptionally dark green, five to seven-inch-long twisted needles are borne in groups of two. Although trees may or may not have a central leader prune to develop one if the tree will be grown to a large size. Branches are held horizontally in a picturesque silhouette and sometimes can outgrow the central leader forming an attractive multistemmed specimen tree. It is probably best used in this way.



Figure 1. Middle-aged *Pinus thunbergiana*: Japanese Black Pine

Credit: Ed Gilman

[Click thumbnail to enlarge.]

General Information

Scientific name: *Pinus thunbergiana*

Pronunciation: PIE-nus thun-ber-jee-AY-nuh

Common name(s): Japanese Black Pine

Family: *Pinaceae*

USDA hardiness zones: 6A through 8B (Fig. 2)

Origin: not native to North America

Invasive potential: little invasive potential

Uses: specimen; container or planter; Bonsai; highway median

Availability: not native to North America

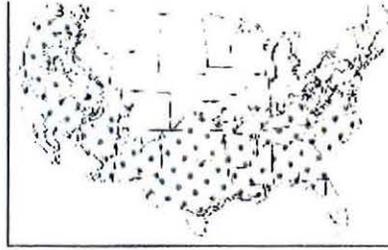


Figure 2. Range
[Click thumbnail to enlarge.]

Description

Height: 25 to 30 feet

Spread: 20 to 35 feet

Crown uniformity: irregular

Crown shape: pyramidal

Crown density: open

Growth rate: moderate

Texture: medium

Foliage

Leaf arrangement: alternate (Fig. 3)

Leaf type: simple

Leaf margin: entire

Leaf shape: needle-like (filiform)

Leaf venation: parallel

Leaf type and persistence: fragrant, evergreen, needled evergreen

Leaf blade length: 2 to 4 inches

Leaf color: green

Fall color: no color change

Fall characteristic: not showy

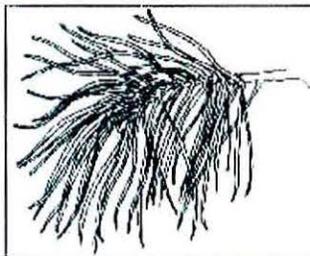


Figure 3. Foliage
[Click thumbnail to enlarge.]

Flower

Flower color: yellow

Flower characteristics: not showy

Fruit

Fruit shape: oval, cone

Fruit length: 1 to 3 inches

Fruit covering: dry or hard

Fruit color: brown

Fruit characteristics: does not attract wildlife; showy; fruit/leaves a litter problem

Trunk and Branches

Trunk/bark/branches: branches droop; not showy; typically multi-trunked; thorns

Pruning requirement: little required

Breakage: resistant

Current year twig color: brown

Current year twig thickness: medium, thick

Wood specific gravity: unknown

Culture

Light requirement: full sun

Soil tolerances: clay; sand; loam; alkaline; acidic; well-drained

Drought tolerance: high

Aerosol salt tolerance: high

Other

Roots: not a problem

Winter interest: no

Outstanding tree: no

Ozone sensitivity: tolerant

Verticillium wilt susceptibility: resistant

Pest resistance: sensitive to pests/diseases

Use and Management

Trunks are usually not straight but sweep up in a gentle curve. It is often used as a specimen on smaller properties, or is planted in groups on larger scale landscapes. Space 10 to 20 feet apart for mass planting or to create an open screen. Japanese Black Pine can be successfully trained into a bonsai or small specimen plant with selective pruning.

The plant tolerates dry, sandy soil and is extremely salt tolerant, being used successfully along beach front property in the full sun. It also grows well in clay soil with a pH of 8.0. Drought tolerance is good. May grow two to three feet in a year but this rapid growth under optimum cultural conditions may lead to the asymmetrical, open growth habit.

Propagation is by seed which germinate readily.

Pests

Usually none serious, except Pine wilt nematode in the east and tip moth on recently transplanted Pines.

The Maskell scale has recently devastated large numbers of trees in New Jersey.

Some adelgids will appear as white cottony growths on the bark. All types produce honeydew which may support sooty mold. European Pine shoot moth causes young shoots to fall over. Infested shoots may exude resin. The insects can be found in the shoots during May. Pesticides are only effective when caterpillars are moving from overwintering sites to new shoots. This occurs in mid to late April or when needle growth is about half developed.

Bark beetles bore into trunks making small holes scattered up and down the trunk. The holes look like shotholes. Stressed trees are more susceptible to attack. Keep trees healthy.

Sawfly larvae caterpillars are variously colored but generally feed in groups on the needles. Some sawfly larvae will flex or rear back in unison when disturbed. Sawflies can cause rapid defoliation of branches if left unchecked.

Pine needle miner larvae feed inside needles causing them to turn yellow and dry up.

Pine needle scale is a white, elongated scale found on the needles. Pine tortoise scale is brown and found on twigs. Depending on the scale, horticultural oil may control overwintering stages.

Pine spittle bug lives and hides in a foamy mass.

Zimmerman Pine moth larvae bore into the trunk. The only outward symptoms may be death of parts of the tree or masses of hardened pitch on the branches.

The larvae of Pine weevils feed on the sapwood of the leaders. The leader is killed and the shoots replacing it are distorted. First symptoms are pearl white drops of resin on the leaders. The leaders die when the shoot is girdled as adults emerge in summer.

Diseases

This pine is resistant to *Diplodia* tip blight.

Footnotes

1. This document is ENH-639, one of a series of the Environmental Horticulture, UF/IFAS Extension. Original publication date November 1993. Revised December 2006. Reviewed February 2014. Visit the EDIS website at <http://edis.ifas.ufl.edu>.

2. Edward F. Gilman, professor, Environmental Horticulture Department; Dennis G. Watson, former associate professor, Agricultural Engineering Department, UF/IFAS Extension, Gainesville FL 32611.

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