

# Board of County Commissioners

## Agenda Request

Date of Meeting: April 21, 2009

Date Submitted: April 3, 2009

To: Honorable Chairman and Members of the Board

From: Benjamin H. Pingree, County Administrator  
Lindsay Stevens, Assistant County Administrator  
Cleve Fleming, Public Works Director  
Somerset Strickland, Assistant Planner

Subject: Board Directed Staff Report Regarding the Hidden Meadows Subdivision

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### **Statement of Issue:**

This agenda request provides the Board with a staff report outlining the State and County permitting history of Hidden Meadows Subdivision, located on the north side of Lower Bridge Road, east of the Wakulla County Landfill (the "Subject Property").

### **Background:**

At the February 3, 2009 meeting, the Board directed staff to prepare a comprehensive staff report outlining the permitting history and issues related to the Hidden Meadows subdivision and its stormwater collection system contained on-site. This memo compiles months of staff research and analysis on this issue.

The Subject Property underwent a Comprehensive Plan Future Land Use Map Amendment from Agriculture to Agriculture, Rural 2 and Urban 1. This Amendment was adopted by the Board of County Commissioners on February 7, 2005.

Shaw Securities, Inc. was the original Applicant, with Hidden Meadows LLC (the "Developer") in the Application for Change of Zoning (R05-27) from AG (Agriculture) to PUD (Planned Unit Development) and the related Application for Preliminary Plat (PP05-09) to construct a 177 lot, mixed use subdivision on a parcel containing 192+/- acres. As required by the Wakulla County Code, residents within 500 feet of the Subject Property received notice via certified mail, in addition to signs being posted on the Subject Property and newspaper advertisement.

The Board of County Commissioners conducted the first of two required Public Hearings to consider the Application for Change of Zoning (R05-27) and Application for Preliminary Plat (PP05-09), on August 1, 2005. At this meeting, several citizens voiced concerns about these applications, including adverse impacts to County schools, the high rate of growth the County was undergoing at the time, water quality and the need for buffers along the adjacent properties. In addition to the speakers present at the meeting, the neighbors within the adjacent Beechwood Subdivision submitted a petition in opposition to the Hidden Meadows Subdivision. A representative spoke for Mr. Guy Revell, a

neighboring landowner, expressing concerns for the protection of the karst features located on his property, and the need for fences to be constructed around the karst features to prevent people from entering the sensitive lands.

At the first public hearing for the Preliminary Plat and rezoning, Hidden Meadows, LLC (the Developer) committed to install playground equipment within the designated park to provide “*useable open space*,” construct berms and fences around the karst features located in and adjacent to the Subject Property, as well as to post “no trespassing” signs around the karst features. The Developer also committed to including conservation easements and buffers around the wetlands and karst features. Additionally, the Developer committed to a 35’ landscape buffer, on the east boundary of the Hidden Meadows development. The Board of County Commissioners took no action at that Hearing (Attachment 1).

The second of two Public Hearings was held on September 6, 2005 for the Preliminary Plat and rezoning. Discussion occurred regarding the installation of playground equipment in the park, the preservation of wetlands and karst areas, a landscape buffer and the construction of sidewalks within the subdivision. One Commissioner read a letter from a citizen representing Beechwood Subdivision, which stated that the residents were satisfied with the efforts of the Developer to address their concerns. The motion to approve passed unanimously, with all Commissioners in favor (Attachment 2).

It should be noted that the Water Quality Amendments of the Wakulla County Comprehensive Plan, which include substantial karst protection measures, became effective on October 2, 2006. The PUD and Preliminary Plat, as well as the Final Plat, were in the process and approved prior to this date. In addition, Chapter 32, Wakulla County Code, most commonly referred to as the County Wetlands Ordinance, became effective on May 1, 2006. Similar to the Water Quality Amendments, the PUD and related Preliminary Plat, as well as the Final Plat of the Subject Property were in the County permitting process and not subject to these requirements as part of their approval.

The Board of County Commissioners reviewed the Application for Final Plat at a Public Hearing on October 16, 2006. As required by the Wakulla County Code, the public notice for this development included signs being posted on the Subject Property as well as newspaper advertisement. At the Final Plat public hearing, The Farm Subdivision Home Owners Association submitted a letter and voiced concerns regarding construction debris on the Subject Property, a broken irrigation system and damaged landscaping belonging to The Farm Subdivision. At the meeting, staff noted that a Letter of Credit (LOC) was provided by the Developer to insure the completion of the infrastructure improvements within the Subject Property. The motion to approve passed 4-1 (Attachment 3). Currently, the issues relating to The Farm Subdivision articulated during the Final Plat hearing appear to have been resolved.

On April 2, 2007, the Board directed staff work out the details of a request made by the Developer. The Developer requested the County allow the division of the original LOC between the Developer and two builders (Turner LL and Advanced Builders) to secure remaining infrastructure improvements, including sidewalks and road paving. Staff prepared an Agenda Request for the Board's consideration and requested action regarding these LOCs during the March 17, 2009 meeting. Subsequently, the Board's motion was to direct the County Attorney to draw upon all available Letters of Credit related to the Hidden Meadows Subdivision and direct staff to provide the Board with a plan to complete the required infrastructure improvements. Staff is diligently working to develop this plan.

This item was continued from the March 17, 2009 Board of County Commissioners meeting.

**Analysis:**

As of the date of this Agenda Request, fourteen (14) homes have been permitted for construction within Hidden Meadows Subdivision. Of these fourteen permitted homes, twelve (12) of these homes are complete. Staff inspections of the existing improvements, in conjunction with the approved construction plan, Preliminary Plat and PUD document, determined that a number of infrastructure improvements remain unfinished as of the date of this Agenda Request. Many of the sidewalks are not complete, as builders prefer to install these after a home is constructed on each particular lot. Additionally, several deficiencies exist regarding the paving and asphalt within the Subject Property. A letter provided by Wakulla County Public Works/ESG depicts the details of absent improvements (Attachment 4). It should also be noted that the Developer and their Engineer recently contacted both Planning and the staff of Public Works/ESG regarding the remaining improvements. To date, the Developer and their representatives are working on a mutually-agreeable resolution to the outstanding infrastructure improvements. However, since these conversations are ongoing, there has not been any additional site work occurring on the Subject Property. The following are the outstanding infrastructure improvements needed at the Subject Property:

1. Limerock thickness and density reports
2. Asphalt thickness and density reports for the first lift of asphalt
3. Final lift of asphalt, along with the thickness and density reports
4. Sidewalks
5. Playground Equipment
6. Landscaping along the eastern boundary of lots 18-40, block "A"
7. Street Signage
8. Fencing and berms around the karst features adjoining the northern boundary of lot 9, block "B" and in the open space of the northwest corner of block "B", as shown on the approved Preliminary Plat.
9. "No Trespassing" signs near the karst features

Concerns about the lack of stormwater management ponds within Hidden Meadows Subdivision have surfaced in the months following the approval of the Final Plat. Citizens were under the impression that the Subject Property would include stormwater management ponds within the Hidden Meadows

infrastructure. Concerns have been raised that the absence of the stormwater ponds will result in an increase of untreated runoff into the adjacent karst features and wetlands, especially once the Subject Property is built-out.

Staff research revealed that the approved Preliminary Plat depicted stormwater treatment ponds to capture and treat stormwater run-off from the Hidden Meadows Subdivision. These facilities were originally submitted for permit review to the Florida Department of Environmental Protection (DEP). In 2005, the Developer submitted construction plans to DEP illustrating both swales and stormwater treatment facilities (ponds) on the Subject Property. The stormwater ponds shown on the construction plans would have provided 0.5 inches of treatment per the DEP requirements. Later, and prior to issuance of a permit, the Developer withdrew the General Permit Application and submitted for a Swale Exemption through DEP. Based on the infiltration rate of the soils, the depth, shape and the length of the swales, it was concluded by the design engineer that the swales alone would be adequate for stormwater treatment. Therefore, the Developer subsequently withdrew its stormwater permit application that included the stormwater ponds, and applied for a swale exemption pursuant to 62-25, F.A.C. (commonly referred to as the “swale exemption”).

The design engineer certified to DEP that swale system within the Subject Property infiltrates 80% of the 3 year- 1 hour storm event within 72 hours. The 3 year – 1 hour storm event in this area is 2.55 inches. Therefore, the design engineer determined and certified that the swales on the Subject Property treat four (4) times the amount of stormwater that the ponds would have been treating onsite (2.55 inches of treatment in the swales versus 0.5 inches of treatment by the ponds.)

DEP issued a swale exemption for the construction of swale system along all the roadways within Hidden Meadows on September 14, 2005. Staff notes that the exemption was granted by DEP eight (8) days after Preliminary Plat and PUD was approved by the County (Attachment 5). As a result of the DEP exemption, culverts were constructed in a manner in which stormwater, which is treated in the swale system, is subsequently discharged into wetlands and two karst features located on the west and northwest portion and boundary of the Subject Property. These locations are on the portions of the Subject Property that adjoin Mr. Guy Revell’s property (Attachment 6). It should be noted that at one time the Developer owned a portion of the karst features but deeded this property over to Mr. Revell on January 22, 2007 (Attachment 7), subsequent to the approval of the Final Plat.

Citizens have expressed concerns about the construction of the swale stormwater management system within the Subject Property. At the initiation of the County Administrator and without prior Board direction, numerous staff resources and energy, including from members of Administration, Planning, and Public Works have repeatedly met with Mr. Revell and other citizens to discuss and research the noted citizen concerns including the change in the stormwater plans from a pond system to a swale system. Additionally, County staff approached DEP on multiple occasions during this research process. At County staff’s request, DEP staff reviewed its files and conducted a site inspection. DEP concluded that the constructed swales provide adequate treatment of stormwater run-off, prior to the stormwater being discharged into the wetlands and karst features.

According to Policy 1.1.1 of the Infrastructure Element of the *Wakulla County Comprehensive Plan*, stormwater management systems serving new development shall be designed such that the post-development stormwater volume and peak discharge rate do not exceed pre-development conditions for a twenty-five year, twenty-four hour design storm and shall provide stormwater treatment as required by State Water Policy Rule 17-40.420, Florida Administrative Code (F.A.C.). The County requires coordination with the DEP to ensure that all development activity further complies with Rule 17-25, F.A.C. Both Rules 17-40.420 and 17-25, F.A.C. had been revised and updated to be Rules 62-40.420 and 62-25 F.A.C, respectively. The design engineer was able to demonstrate that the on-site swales infiltrate 80% of the runoff from the 3 year – 1 hour storm event. These calculations were submitted to DEP, and a letter of determination was prepared by DEP indicating the Hidden Meadows project was exempt from permit requirements for stormwater discharge as per Rule 62-25.030(1)(c), F.A.C. Obtaining the swale exemption indicates that the project does conform to the requirements of 62-25 (formerly 17-25), F.A.C. for stormwater treatment. However, based upon the information submitted by the design engineer, it cannot be determined if the existing swale stormwater management system complies with the requirement for volume and rate control for the 25 year – 24 hour storm event, as required by Policy 1.1.1 of the Infrastructure Element of the *Wakulla County Comprehensive Plan*.

Staff met with the Developer and Engineer of Hidden Meadows Subdivision and requested that they provide information and calculations that demonstrate that the constructed swale stormwater treatment management system, currently existing within Hidden Meadows Subdivisions complies with the aforementioned Policies set forth in the Infrastructure Element of the *Wakulla County Comprehensive Plan*. As of the date of this Agenda Request, the Developer and Engineer have not provided this information.

Based upon County staff's research of the file and speaking with relevant parties involved in the approval process, it does not appear that a public hearing was ever conducted regarding the changes from the stormwater pond system to the swale stormwater management system in the Preliminary Plat. The County files indicate that the staff report for the Final Plat discussed the stormwater plan containing ponds. Therefore, it is not clear whether County staff had been made aware of the modification in the stormwater plan from ponds to swales. Staff research also indicates that the modification of the stormwater plan was not specifically discussed by the Board during the Final Plat Public Hearing.

In summary, staff research revealed the following:

1. The Subject Property obtained a swale exemption from DEP on September 14, 2005. This occurred after the Preliminary Plat and PUD was approved by the County, but prior to the approval of the Final Plat. Therefore, receipt of the exemption indicates the Subject Property does conform to the requirements of Rule 62-25, Florida Administrative Code, for stormwater treatment. Therefore, the Subject Property's stormwater treatment system complies with the requirements of the County Comprehensive Plan and Wakulla County Code in effect at the time this project was approved by the County.

2. Based upon the staff research of the County files, it cannot be determined if the stormwater management system complies with the requirement for volume and rate control for the 25 year-24 hour storm event as required by Policy 1.1.1 of the Infrastructure Element of the Comprehensive Plan, which was in effect at the time this project was approved by County.
3. The Final Plat for the Subject Property did not specifically highlight the change in the stormwater management facilities to remove the treatment ponds. It is not clear from the County records or reviews of the public hearing tapes whether County staff was aware the treatment ponds were removed from the stormwater management facilities on the Subject Property.
4. The Subject Property is lacking several infrastructure items, which were required by the County during the approval of the Preliminary Plat/PUD, including:
  - a. Limerock thickness and density reports
  - b. Asphalt thickness and density reports for the first lift of asphalt
  - c. Final lift of asphalt, along with the thickness and density reports
  - d. Sidewalks
  - e. Playground Equipment
  - f. Landscaping along the eastern boundary of lots 18-40, block "A"
  - g. Street Signage
  - h. Fencing and berms around the karst features adjoining the northern boundary of lot 9, block "B" and in the open space of the northwest corner of block "B", as shown on the approved Preliminary Plat.
  - i. "No Trespassing" signs near the karst features

**Options:**

1. Accept the staff report regarding the Hidden Meadows Subdivision.
2. Direct the County Attorney to obtain expert analysis and advice (hydrologist, engineer or other professional) on the Hidden Meadows Subdivision, contact the Developer to discuss potential remedies or pursue injunctive or other legal relief as deemed necessary by the Board.
3. Do not accept the staff report regarding the Hidden Meadows Subdivision.
4. Board Direction.

**Recommendation:**

**Options #1  
and #4**

**Attachment(s):**

1. BOCC minutes, August 1, 2005
2. BOCC minutes, September 6, 2005
3. BOCC minutes, October 16, 2006

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4. Letter from Public Works/ESG
5. DEP Swale Exemption
6. Pictures
7. Deed conveying title to portions of sinkholes
8. Preliminary Plat
9. Final Plat