

## Board of County Commissioners Agenda Request

Date of Meeting: September 11, 2007

Date Submitted: September 5, 2007

To: Honorable Chairman and Members of the Board

From: Parwez Alam, County Administrator  
Vincent Long, Deputy County Administrator  
Don Lanham, Director, Division of Health and Human Services

Subject: First and Only Public Hearing Regarding the Purchase of a Tract of Land Within the Proposed Fred George Basin Greenway Project

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**Statement of Issue:**

Conduct the first and only Public Hearing concerning the purchase of a tract of land, owned by R.P. Properties, LLC. This parcel is an integral part of the proposed Fred George Basin Greenway Project.

**Background:**

The Fred George Basin is located in northwestern Leon County and is made up of several parcels that contain developable uplands as well as flood prone areas, wetlands, and the Fred George Sink itself (Attachment #1). The three parcels that form the core of the Fred George Basin are owned by R.P. Properties, LLC. (R.P.), Christina Maples, and James Maples. The owners applied for a rezoning of their property in April 2006. Prior to the Planning Commission hearing on the requested rezoning, petitions were filed with the Florida Division of Administrative Hearings (DOAH) by Ms. Misty Penton, a nearby resident, claiming that the increase in density would change the nature of the rural community, increase runoff in the Fred George Basin, cause flooding within some neighborhoods, and have a negative impact on threatened and endangered species in the area. Standing to challenge was found in two of the three rezonings (R.P. and James Maples). The rezoning requests were voluntarily postponed by the owners, and the DOAH hearing placed in abeyance, pending a decision on final disposition of the property. A report due to the Administrative Law Judge assigned this case is due on October 16, 2007.

At the October 10, 2006 Board meeting, the acquisition of the parcels was discussed under Commissioner's time and staff was directed to develop an agenda request concerning this issue. The agenda item went before the Board at the December 12, 2006 regular meeting (Attachment #2). After discussion, the Board voted to acquire the tract owned by R.P. Properties LLC, the most environmentally-sensitive parcel, upon dismissal of the rezoning request, with the option to acquire the James Maples and Christina Maples property at a future time. In addition, the Board directed staff to seek Blueprint 2000 (BP 2000) funding for the acquisition of all three properties.

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At the February 13, 2007 regular meeting, an agenda item concerning the proposed Fred George Basin Greenway went before the Board (Attachment #3). After discussion, staff was directed to seek funding for the acquisition of the three original parcels and two additional parcels, the four-acre Schwartz property, located to the north of the other three parcels, and the 13-acre Cavanagh property, located to the east of the other three parcels. Staff was directed to seek the additional funding required for the acquisition by submitting a Florida Communities Trust (FCT) Grant application to the Florida Department of Community Affairs (DCA).

In January 2007, the County submitted a request to BP 2000 to reclassify the Fred George Basin project from a Tier 2 to a Tier 1 to obtain BP 2000 funding. In addition, the County requested that BP2000 utilize the funding originally allocated for Lake Jackson projects for the Fred George Basin project since many of the Lake Jackson projects had been completed using other sources of funding. BP 2000 staff submitted this proposal to their Technical Review Committee (TRC) on February 8, 2007. The TRC considered the issue and formally recommended the transfer of \$2.691 million from the Lake Jackson project to the Fred George Basin project. This recommendation was presented to the Citizens Advisory Committee (CAC) which also met later on February 8, 2007. The CAC concurred with the TRC and formally recommended the transfer \$2.691 million to the Fred George Basin project and to begin the reclassification process necessary to move the project from Tier 2 to Tier 1. This recommendation went to the BP 2000 Intergovernmental Agency (IA) meeting on February 26, 2007. The IA directed BP 2000 staff to schedule the public hearing necessary to move the Fred George Basin project to Tier 1 and, upon the reclassification, transfer no more than \$2.77 million to the project. At a public hearing on June 4, 2007, the IA approved the reclassification of the project to Tier 1 and the allocation of no more than \$2.77 million to the project.

Concurrent with the process of seeking funds through BP 2000, the Tallahassee-Leon County Planning Department (Planning), working with other County staff and interested citizens, developed a FCT application for the Fred George Basin Greenway project. The application calls for the reimbursement to the County after the parcels have been acquired through a voluntary negotiated transaction. The application requested \$2,350,000 (50%) of the estimated \$4,700,000 project cost, and was submitted to the FCT offices on May 9, 2007.

In order to expedite the acquisition of the properties, County staff ordered appraisals for all five parcels. Since FCT would utilize the appraised value in determining the amount of reimbursement to the County if the grant was awarded, the FCT process of appraisal was utilized. Two state-certified appraisers were retained, and appraisals were done for each parcel. A third state-certified appraiser reviewed the appraisals to insure accuracy, and developed a Maximum Approved Purchase Price (MAPP) (Attachment #4).

On August 1, 2007, the County Administrator executed a Purchase and Sales Agreement and presented it to the owners of the R.P. Properties parcel, offering a purchase price of \$1,200,000, subject to Board approval, based upon the MAPP for the parcel as determined by the review appraiser (Attachment #5).

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Notice of the public hearing on the purchase of a tract of land within the proposed Fred George Basin Greenway Project was timely advertised pursuant to Board Policy 03-01 (Attachment #6).

**Analysis:**

The proposed Fred George Basin Greenway project consists of five contiguous parcels located north of Fred George Road, between Capital Circle NW, and the CSX railroad tracks that run parallel to and west of Old Bainbridge Road. The parcels total 175 acres in size and include the 79-acre R.P. Properties tract, the 76-acre Maples tract, the three-acre Christine Maples tract, the 13-acre Cavanagh tract, and the four-acre Schwartz tract. The protection of the Basin, including its flood-prone areas, wetlands, and the Fred George Sink, has been a community priority, as noted by the Special Development Zone classification adopted for the Basin and the zoning of the parcels to low-density residential. The purchase of flood-prone and environmentally sensitive properties within the Basin was incorporated into the *Blueprint 2000 and Beyond* report, adopted by the Board; however, the project was among those on the "Tier 2" list for which funding was not allocated.

The latest effort to protect the Basin was predicated by a request to change the zoning on three of the tracts (R.P. Properties, Christina Maples, and James Maples) from Residential Acre (RA) to Single-family Detached, Attached Two-family Residential (R-3). The current RA zoning allows for no more than one dwelling unit per acre, while the R-3 zoning would allow for as many as eight dwelling units per acre (Attachment #7).

Based upon the directions given by the Board at their December 12, 2006 meeting, staff has initiated the process of acquiring the parcels, with the first offer being made to R.P. Properties, LLC. On the 79-acre R.P. Properties tract, the current RA zoning yields a maximum potential development of 79 dwelling units. With approximately 60 to 65 acres of the tract in floodplain swamp/flood plain forest or bottomland forest, the transfer of on-site density to allow the clustering of the residential units on the non-environmentally sensitive portions of the parcel, consisting of 14 to 19 acres, would be allowed by the Land Development Code (Section 10-4.323 (h) (Attachment #8)). To accomplish this, the developer would have to obtain a deviation to required lot size and perhaps setback requirements as part of their site and development plan application; alternatively, they could apply for a PUD concept plan (which would allow the establishment of proprietary lot size and setback, but not density standards) and rezoning application, a more rigorous and time-consuming process. Department of Growth and Environmental Management (GEM) staff has indicated their support for recommending approval of such deviations to accomplish the on-site density transfer, in furtherance of the Tallahassee-Leon County Comprehensive Plan (Land Use Element, Policy 2.1.3) (Attachment #9). This Policy directs development to occur only within the non-environmentally sensitive portion of a site, at a density of no greater than twice the maximum density of the applicable future land use category. The future land use category for this tract, "Urban Residential-2", allows a maximum of 20 dwelling units per acre, therefore the development of 79 residential units on the 14 to 19 acre non-environmentally sensitive portion of this tract would be allowed under the current zoning classification.

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If the purchase of this property by the County was not to occur, the owners could move forward on their request to have the property rezoned to R-3. This will require DOAH to schedule an administrative hearing where an administrative law judge will review the case and make findings of fact concerning the rezonings. These findings will then be submitted to the Planning Commission for use in their deliberations in developing a recommendation to either approve or deny the requested rezonings. This recommendation will then go to the Board of County Commissioners at a publicly noticed quasi-judicial hearing for final disposition.

If the owners are able to obtain the R-3 zoning classification, the on-site transfer of density, supported by the clustering policy in the Comprehensive plan, would theoretically allow for the development of 632 dwelling units based on the size of the tract. In reality, the R-3 limitations concerning the type of dwelling units allowed (the most intense design allowed is a group of eight (8) one story townhouses), the required setbacks, and the space necessary for support infrastructure, would reduce the potential to approximately 250 to 300 dwelling units on the site. As the developer goes through the development application review process, other issues may appear, and the developer will have to offset significant concurrency impacts (diminution of level of service) on area streets. Based upon the preliminary analysis of one of the County's appraisers, the market value of the property, as zoned R-3, would likely be in excess of \$1.4 million.

Currently, \$2.77 million in BP 2000 funding is available, and \$2.35 million has been requested from FCT. The recommended ranking of FCT projects will be announced in September 2007, and the funding decision will be made by the FCT Board in October/November 2007. If the County is unsuccessful in obtaining funding during the current FCT cycle, program rules will allow the County to re-apply during the 2008 cycle.

The FCT application calls for reimbursement to the County for 50% of the value of the property acquired, based upon the MAPP. The County is responsible for the initial purchase of the property. Currently, the estimated cost of the parcels, utilizing the MAPP and associated costs, is \$3.37 million. If the FCT funding is received, the County would be reimbursed 50% of the MAPP for the parcels and related project costs or \$1.685 million. This, combined with the BP2000 funding of \$2.77 million, will result in \$4.45 million available with which to purchase the five parcels that make up the Greenway. If the FCT funding is not received during the current cycle, the County may re-apply, although there is no guarantee that a re-submittal would be successful.

As previously stated, based on Board direction, County staff is seeking Board approval to purchase the first of the aforementioned parcels known as the R.P. Property parcel. The MAPP for this parcel is \$1.2 million. If the FCT application is successful, FCT will reimburse 50% of the MAPP (\$600,000). Any amount that the County may pay over the MAPP will not be reimbursed by FCT and will be the responsibility of the County to fund. This was the basis of the County Administrator's \$1.2 million offer to the sellers pursuant to the Purchase and Sales Agreement. It is important to note that although the owners of the R.P. Properties parcel have not formally rejected the County's initial offer of \$1.2 million, they have indicated that they will likely accept no less than \$1.4 million for the parcel. Based upon the potential for more intense development of the site with the R-3 zoning classification, and the increased value of the land under that scenario, staff acknowledges that the seller's desire for \$1.4 million purchase price is not unreasonable.

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**Options:**

1. Conduct the first and only Public Hearing and approve the August 1, 2007 Purchase and Sales Agreement to purchase the R.P. Properties, LLC parcel for the maximum approved purchase price of \$1,200,000.
2. Direct the County Administrator to cease negotiations for the purchase of the R.P. Properties, LLC parcel if R.P. Properties, LLC does not accept the August 1, 2007 Purchase and Sales Agreement.
3. Direct the County Administrator to revise the August 1, 2007 Purchase and Sales Agreement, of the R.P. Properties, LLC parcel to reflect a purchase price not to exceed \$1,400,000.
4. Direct the County Administrator to cease negotiations for the purchase of the R.P. Properties, LLC parcel if R.P. Properties, LLC does not accept the revised August 1, 2007 Purchase and Sales Agreement.
5. Conduct the first and only Public Hearing and do not approve the August 1, 2007 Purchase and Sales Agreement to purchase the R.P. Properties, LLC parcel for the maximum approved purchase price of \$1,200,000.
6. Board Direction.

**Recommendation:**

Board Direction.

**Attachments:**

1. Fred George Basin Map
2. December 12, 2006 Agenda Item
3. February 13, 2007 Agenda Item
4. Maximum Approved Purchase Price (MAPP) Summary
5. August 1, 2007 Purchase and Sales Agreement
6. Advertisement of Notice of Public Hearing
7. Zoning Tables – RA (Residential Acre) and R-3 (Single-family Detached, Attached Two-family Residential), Leon County Land Development Code
8. Land Development Code (Section 10-4.323 (h))
9. Tallahassee-Leon County Comprehensive Plan - Land Use Element, Policy 2.1.3

PA/VL/DAL