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Land Use Oral History Project
Patel Center for Global Solutions
University of South Florida

Interview with: Mr. Ron Weaver
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WM: I always put a label on the disc by saying, “This is Bill Mansfield from the University of South Florida’s Patel Center for Global Solutions, talking to Mr. Ron Weaver on September 26, 2006 in his law offices in downtown Tampa.”

Mr. Weaver, we always get people to start off by having them state their name and telling us when and where they were born. So let her go.

RW: Thank you Bill. Ronald L. Weaver, I go by Ron Weaver and I was born in Forsyth County, North Carolina, Winston-Salem, in 1949.

WM: Okay. I’m from North Carolina myself.

RW: I thought I noticed that wonderful accent which I loved when you first came in.

WM: (laughs) Okay. I guess—tell me your current occupation.

RW: I’m a land use attorney.

WM: Okay. Could you describe the duties and responsibilities of a land use attorney?

RW: My job is really to get approvals, to determine compatibility. To determine compliance with the applicable regulations and to enable landowners to improve their property as far as their entitlements [are concerned] with the zonings, comprehensive plan amendments and other regulatory compliance with the various—the development of regional impact, zonings, transportation concurrency and ways of obtaining approvals for the development of property in Florida.

WM: Okay, could you translate that for the layman?

RW: I get shopping centers their “Yes” to build.

WM: Okay.

RW: And homes and industries—new industries.

WM: Okay. And who are your clients?

RW: Over a hundred of the state's major landowners and developers of all types of real estate, from major new communities, like the Trinity Community, on the borderline between Pasco and Hillsborough Counties. It's one of our hundred projects. And four or five [of] the regional malls, including the Citrus Park Mall and numbers of national headquarters and Bank of America facilities, and about a hundred different shopping centers and corporate parks.

Nielson Headquarters was one of our approvals. About 600,000 square feet in Oldsmar, for Nielson Media Research.

WM: Uh-huh. So explain how you serve them. I guess you translate the law into what they want to do?

RW: Exactly. Translation is half of our work and another quarter is coordination of various consultants and experts and another fourth is advocacy before various governmental bodies to obtain approvals.

WM: Okay. So talk about the different groups you coordinate. And if it would make it easier to explain—[you can present] a hypothetical example and tell me how you would go through [the process] to get that project approved.

RW: Sure. Umm—Engineers often—umm—contribute studies of the geology, the hydrogeology, such as the wetlands. The freedom of the site from sinkholes, the drainability of the property, the—umm—other geophysical properties of the property to handle particular stress with respects to certain buildings.

Then we engage transportation engineers. The transportation engineers study the ability to obtain approvals to meet what is known as transportation concurrency, which is a state law precluding development unless there are adequate public facilities concurrent with development within a reasonable time of the impacts of development. We coordinate the various experts: species experts who ascertain if there are eagles, or other protected species, and a dozen other engineers, planners and consultants who make up the team.

WM: Okay. Well, that answers that. How do you get to be a land use attorney? There are so many different things to go into in law, how did you end up being a land use attorney?

RW: I went to the University of North Carolina, in Chapel Hill and Harvard Law School. During the Harvard Law School study I took a course by a professor named Michaelman(?), who was one of, if not **the** most famous local government lawyers in

America. [I] took his course in local government and saw that that was one aspect of the law that more open ended, offered more opportunity, offered more ability to be of service and be a part of a community's growth and part of a community's development. [For me] to be part of the team.

WM: Uh-huh. So when you say you're interested in "being a part of a community's development," development in what way? Residential? Industrial? Umm—

RW: Three ways. The development of the "concrete" is a small part of it. The development of the job base is a large part of it. And the development of the social infrastructure is what actually gets me excited.

All three of those developmental ingredients are important to our practice and to my life.

WM: Well, tell me about the social aspect of it, if that's what excites you.

RW: I spend about a fourth of my time on various boards, over a dozen different boards. I've chaired the finance committee for the Bay Care Health System, which includes Morton Plant, Mease Hospitals and St. Joseph's Hospital. The healthcare infrastructure is something I've spent eighteen years of my life involved in, including chairing finance committees of holding companies, like those for major health care facilities all over this region.

Others included the chairmanship of the American Heart Association, with respect to underlying infrastructure for our health care. I've also served on the Board of Fellows for the University of Tampa. Also I've been active in a dozen different local contributors to our local welfare.

WM: Okay. Forgive me if this question seems trite, but how does land use—explain how land use affects that?

RW: Virtually every part of those boards' decisions has some physical evolutionary or expansion element to it. The new facilities, the protection of the existing facilities, dealing with hurricanes, preparations for hurricanes. Many of the skill sets in land use development law are also helpful in some of those boards where I have served as the attorney member.

That is to say not the general council for that particular organization, but I served as an available member of the board who also happened to have a law degree, to contribute [legal advice] as a volunteer. Assuring that that particular mission of that particular health care initiative, for example, was advanced. It also gives me a chance to see the community as it really is rather than as I merely hope it might be vis-a-vis these approvals that we seek and obtain.

WM: Uh-huh.

RW: Also the context of these approvals are crucial. Husetops are one thing, but the ability of the folks who occupy them to have adequate health care, nearby—affordably, safely, is what really gets me excited.

WM: Okay. I think we need to have people that are looking after our interests in that respect.

So—but—umm—tell me about the current regulations for land use and development? How do they help or hinder development?

RW: They do about three-fourths hindering, which is affectionately known as parenting. And which has a certain degree of necessity. Which I would be the first to admit that the parenting is good. The facilitating is even better—ah—the enabling, the empowering. Therefore these regulations generally parent.

Not every parent's perfect. These regulations are not perfect. Some of them have excessive requirements. They're not as related to the underlying desired social or public welfare good. However many of them have been born of some "hard-knocks" and therefore many of these regulations are practicable. Some are still esoteric and unreasonable. But many of them have been shaved and been polished into relatively practical parenting tools for new growth.

WM: Okay, so the regulations control growth. But you say they hinder it?

RW: Only in the positive sense. I say that somewhat tongue-in-cheek.

They hinder it the way a parent hinders excesses at the home. They police, they check, they watch, they mitigate for, they—interject some circumspection into the process, some compatibility, some context—some fit with what the rest of the community is about, or **ought** to be about.

WM: Okay. So, when a builder comes to you, a developer comes to you and says, "We want to put this subdivision, in this particular place." Your first step is to do what?

RW: Well, umm—our first step of course would be to get a retainer. (laughs)

WM: (laughs) Right.

RW: No, candidly, our first step would be to make sure that the owner controlled the property. We start with control. You need to have a contract for sale that is tight enough with a long enough time frame for us to do our job, so we're not making value for someone else to enjoy.

So first of all we make sure he has control of the property, like a firm contract for sale, at least, or a title may be a deed. Either one will do as long as the control includes an agency

by the current owner, authorizing him or me to seek these approvals of the current owner, which is one of my prerequisites.

Then we check the title, to make sure that the property has sufficient—that indeed good title to the property is available, or can be obtained by this buyer—or is already owned by this particular seller. Then we look at whether [there are] any restricted covenants of record. We look at what the existing zoning is, what the existing comprehensive planning category [is]. The transportation engineer looks at the transportation level of service to see if the local service is adequate. Some of the geophysical, geo-technical, soil supporting [characteristic.] Wetlands—wetlands preclude development. Species' habitats preclude development. And a dozen other of those specialties we talked about [earlier].

WM: Okay. So you look and see what's there?

RW: Achieve-ability, with the goal of what he wants to build.

WM: Okay.

RW: If he doesn't quite know we get an absorptionist. An absorptionist is an economist that figures out what will sell. While we achieve what is regulatory obtainable, an absorptionist helps him determine what would sell.

WM: Okay. I want to make sure I understand what you do. So you check the existing laws against the piece of property and make sure that the property development plans fit the existing laws?

RW: Correct. Or how to change them. And that's where we usually come in with our sophisticated commercial real estate practice. Much of what we do—if it was already zoned, they can get a contract. If it isn't yet properly zoned or it has a transportation concurrency moratorium, or if it has a comprehensive plan category that doesn't fit, then we will engage in the change process. We're change engines, usually.

WM: Okay.

RW: To change the existing zoning to that particular owner's aspirations are.

WM: And tell me how you go about changing the existing zoning?

RW: That's a combination of applications for zoning change, applications for comprehensive plan change, applications for development—developments of region impact. (Which are large-scale developments.) Over 300,000 square feet of office [space is an] example or more than 3000 residential homes. For example of a large county in Florida, those are the applications we help file and process. [We] negotiate with staff, negotiate conditions appear at hearings. [We] appear with neighborhood associations, in order to advocate this approval.

WM: Okay. Tell me, if you can, about some of the changes that you seek to achieve. I mean, I know there are people I've talked to about density.

RW: Yes.

WM: And—you know—the developer wants more and the density in this particular parcel of land than the zoning law allows. So how do you—um—convince the county government to change that zoning? How much is a challenge is that?

RW: That has been a moderate challenge for the last thirty years. The three ingredients are—Number one is the context. Some parcels are simply left behind and their neighboring densities are twice their own and they are able to double their density by context, compatibility. Secondly, if that is not the case, then there is a bit more of a steeper hill to climb and that steeper hill would be to show that even though there may not be contextual compatibility, yet there is need compatibility—in the sense that there are thousands of additional homes needed to address the more than 25,000 people that move to Florida every year. Many of them [come] to this area.

About a sixth of them all come to the Tampa Bay area. Therefore as those [people] arrive in Tampa Bay area the need compatibility may suffice, if we do not have immediate contextual, neighboring density compatibility.

A third kind of density increase basis is what we call new communities, or hamlets. By which we will actually go out five or ten miles further than any existing major concentration of density and we will concentrate, in an enclave—a hamlet—a new village—a new community, the combinations of nearby retail, nearby office, nearby job centers—with the residential. In order to merit a dramatic increase in the residential density, from the current agricultural or other density.

WM: Okay. I'm going to have to ask you to explain contextual compatibility.

RW: Sure. The first of the three types of compatibility, and bases for a density increase is that the neighbors are all ten units to the acre and this piece is five units to the acre. So being surrounded by ten units to the acre, you would be compatible if you were to be increased to ten [units per acre]. You wouldn't be incompatible with the surrounding density; it's contextual density.

WM: Okay. Good, that clarifies it.

So you—but I mean—I'm thinking of an example of one individual I talker to. They had a parcel of land. They wanted to develop it and put forty-eight lots I this development. The people in the surrounding communities were fighting it tooth and nail. They didn't want any development. So they went to the—I don't know if it was the zoning master or the Board of County Commissioners—but the developer presented his argument for forty-eight units and the residents presented their arguments for none. The zoning master reached a compromise, which didn't really satisfy anybody, but [reached] a solution.

So how would you figure into a question like that?

RW: Frequently. We'd probably handled that sort of case a thousand times in the past thirty years. And, yes—often these three kinds of density increases meet a compromise. It might be that you have neighbors who are three [units per acre] and neighbors who are ten [units per acre] on either side and you compromise to five or six or seven, in my hypothetical [example].

WM: Uh-huh.

RW: The second example of compromise is the need-compromise. That there is a different perception of how much additional density is needed in a particular area. That's another opportunity for compromise.

The third type, of an enclave or new hamlet also might be scaled back, from the amounts of density that you sought further out—um—from current density directions.

WM: What kind of—I mean you talked about at looking—you know—at what's going on around [the parcel of land] and the transportation ability and the ecological impact—but tell me about getting the experts, the consultant, to provide evidence [in support of] your argument.

RW: Yes. Um—it's very important, especially [in] the last twenty of these thirty years. Um—humble simple, unassisted applications were creatures of the fifties and the sixties and the very early seventies. By the mid-seventies Florida law becomes so complex that you'd find it really hard to maneuver without some help.

WM: Uh-huh.

RW: There are too many icebergs; too many rocks in the water and therefore these consultants are life and death. If you get one who has capacity, who have clarity of their analysis, their thinking and their advocacy, then you can prevail. Often, with the help of an expert, who happens to be not only a great analysis of the situation, but also a great communicator of your vision and a great advocate at the podium and in private meetings of the staff and others (including the neighbors) in order to sell that vision—with their expertise

WM: So—if you could—could you give me a catalogue of the experts. I mean you've talked about the geology people and the environmental people. So explain [those experts]?

RW: Sure. The “big six” are generally, in any of these experts the first is generally the planner. The planner actually draws-up the vision on a proposed conceptual site plan of what will be the uses and what relationship to each other.

The second crucial ingredient is the geophysical. Will those buildings be supportable by the soils? The geophysical, geo-technical support.

WM: Uh-huh.

RW: The third is the environmental habitat location vis-à-vis protected species and their habitat.

[The] fourth is the transportation, which is a huge issue in Florida; because we have transportation-concurrency moratoria, where there are inadequate transportation facilities.

The fifth ingredient would sometimes be an economist, which we call an absorptionist; who'd make sure that this proposal is: A) Presentable to the applicable governments in ways that show the positive economic benefit to the tax payers and the job base, et cetera.

WM: Uh-huh.

RW: That the projects mitigate for its own impact. Crucial part economics in the victory curve.

And then the sixth consultant is the legal consultant.

WM: And that's you?

RW: Yes.

WM: You just mentioned the victory curve. That's a term I've not heard before.

RW: A victory curve is a place in the middle of the preparation where the six consultants all converge on each other's achievability findings. And if they find: "Can-do, Can-do, Can-do, Can-do, Can-do, Can-do." It's legal, already zoned for that, don't need to change it. That would be a victory curve.

WM: Okay.

RW: A second example of a victory curve would be that it does need changing and it's a change victory curve, where you're in the middle of a staff meeting and the staff says, "No, no, no, and no." For six reasons of your six consultants and after twenty-five minutes says, "Yes, yes, yes, yes, yes and yes," to your six ingredients from your six consultants, including your legal consultant in the sixth example.

That's a victory curve; where you've explained yourself so well [and] you've brought in such compelling evidence that the staff says, "I think this does make sense. These are supportable, in keeping with our existing guidelines and in keeping with what we're about as a community."

WM: Okay. Well in working with the planning agencies—oh I'm trying to think of somebody that was telling me a story. He said they had a zoning hearing and the local residents who don't often have the same support as the developers. And then the developers [were present] with their attorneys. So—it seems that often the developers do have more resources and access to information than local people.

(laughs) I guess that's the reality. But what would you—I'm trying to think of the question I need to ask and it just won't come to me.

RW: I think I know [what you're trying to ask]. I was asked that by a reporter [from the Miami Daily Business Review] about six weeks ago. What I told him was, I said that the difference between the power of the neighbors, and the expertise, and the political power, the political sway of the developers and their consultants is evening out a little bit. There are now wide spread training sessions for neighborhood groups in how to address these same issues, from the more protective and the more parenting side of—um—seeking denials instead of approvals for certain projects. While—negotiating compromises to achieve approvals where there are win-win situations.

There is a growing expertise among neighborhood groups, a growing familiarization of each other, with successful techniques. [There is] widespread sharing of books about it, NIMBY-ism. Not In My Back Yard—ism has become a relatively evolving specialty throughout Florida.

WM: One of the farmers I talked to said people want to move out to the country and once they get their place in the country they want to stop development. They don't want any more growth coming in. That seems to be a strange contradiction. People want development, but only up to a point.

I've also talked to people who fear, in some instances, that Tampa is getting over developed. A lot of historical and natural areas are being lost to growth. What are your comments on that?

RW: Some of that natural Florida is being saved in large scale, multi-hundred million-dollar acquisition programs from the local governments and the state. To set aside thousands of acres forever, enabling the natural evolution of the development to have Central Park settings, like in New York [City] where you have set aside representative samples forever. So you don't have a sea of concrete. Those programs have been relatively successful in the last ten years.

WM: What about the efforts to control sprawl?

RW: Urban sprawl is [a] two-edged sword. Umm—when John DeGrove returned home to his barbershop, after he had written a growth management law that encouraged growth to stay closer to the existing facilities—compact urban growth.

WM: Uh-huh.

RW: He also passed this concurrency law which said he would not approve of developments unless there were adequate public facilities to serve them nearby.

And an astute barber, maybe coaxed by a nearby land use lawyer, in the next [barber chair] asked Mr. DeGrove, “How is it that you’re trying to keep growth in the town here, close to this barber shop, rather than sprawling it out into the Everglades? But you’ve passed a law that says you can only build where the roads are adequate and the roads are adequate only out by those Everglades?”

He didn’t have an answer for that, because that is a good barbershop question. It is a two-edged sword. If we are going to encourage development where there is capacity, we’re chasing development away from where the existing capacity stores are (water, sewer, roads, etc. That is the ultimate paradox of Florida’s development.

WM: It does seem to be a conundrum there. But, you say that in the past twenty-five, thirty years the development laws have really changed. If you could, tell me about how they have changed in the past three decades.

RW: The parenting has taken on three layers. The first layer is comprehensive planning, which is an overlay of the entire area, with industrial here, residential here, retail to serve the residential here, et cetera.

Those laws go back about exactly thirty years. [They] were given teeth thirty-one years ago in 1975, when the laws of Florida said that those comprehensive plans require that any zoning approved shall be consistent with those comprehensive plans, not willy-nilly—whatever the elected official’s campaign manager wants to build, by way of his dream house. Instead—something compatible with the overall fabric of the plan. So, in [19]75 we went to sincere parenting, we call it “parenting with teeth.”

WM: Uh-huh

RW: Where the zonings must be consistent with the over all comprehensive planning, which is either every brilliant, or—the parenting is going to create a need for the zoning laws and the comprehensive planning laws to be carefully coordinated.

WM: Okay. So—how has this affected your work? It would seem to have increased your workload considerably.

RW: You bet. Comprehensive planning is a daily, hourly—it’s an hourly part of the land-use lawyer’s regimen. It’s, “What is the comprehensive plan and are we after a zoning that is consistent with it? And if not, “Can we change that comprehensive plan? Improve that fabric, change that fabric?”

WM: Uh-huh. If I understand things correctly the comprehensive plan was drawn up some time ago.

RW: Yes.

WM: And things, indeed, change. So that an area that was ripe for development—then might be an environmental preserve now, or tied up with traffic problems; how do you adjust what was planned then for what is in the process now?

RW: There are—um change of circumstances applications that conform a particular area to what has transpired, instead of what might have been hoped would have transpired. Those kinds of accommodations and adaptations are a frequent part of the daily practice area—which is to watch an area where a particular concentration. For example, if a new industry was hoped for and did not come, like [on] US 301 and Lumsden [Road]. We obtained approval for six million square feet of combined office and industrial [space], hotels and concentrate multi family mid-rises, because it was US 301 at Lumsden [Road] near the interstate and near the Crosstown [Express]. So it has four ways to win. The Crosstown Expressway, US 301, near the Interstate 75, near what is now Causeway Boulevard. That was twenty years ago.

Five years later they built houses instead and we changed the approvals, from the combination of ideal compact urban growth, concentrated mixed use interconnected by sidewalks and bike paths and perfect corridors to a large subdivision. Because it was too soon. A great idea, but it was too soon.

So the comprehensive plan has to be a living, breathing document. It has to adjust to its surroundings.

WM: When you say “too soon,” [do you mean] that people weren’t ready for that kind of development?

RW: They were not, no. There was not sufficient absorption for that product, but there was [sufficient absorption] for a lot of new houses.

WM: Okay. How would you change the development laws?

RW: First of all I would take a certain period of time and I would presume approval. But I would enable the governmental staffs to give convincing evidence why—after say ninety days the approval—why the application should be denied. Now the presumption of approval would do three things. First of all it would motivate the governmental staff to come up with that convincing evidence during those ninety days and present it.

Once presented it would shift the burden back to the developer. Who could in turn, refute it, or not. Failing which, it wouldn’t be approved. That way all parties in the process would be motivated and have some definitive time schemes. They would basically have to work hard, each with the other, to keep their part of the bargain.

That would be sort of a covenant of sorts. That in ninety days we're going to be approved if we meet the prerequisites of a sufficient application, which would have its own requirements. The first burden is really on the applicant to bring in a sufficient application. Meet all of the required listed items of what kind of mitigations are going to be provided. The shifting of the burden after the ninety days would enable the government to know that on the eighty-ninth day [they must] show evidence that there is not enough mitigation, shifting the burden back to the applicant [in order for them] to prevail.

That's how I would change the law.

WM: In talking to the folks, the different [developers], they talk about influencing County Commissioners and the different planning agencies and from what you've told me, you get your group of experts to present your evidence and my assumption is that sometimes that's not enough. How do you make the County Commissioners change their mind? Is it just the weight of evidence? How does politics play into it?

RW: A large part of it is politics, at that level. But at other levels there is very little politics. Although in one sense politics permeates even the lower levels of the process, because of the anticipation of what the political finale will be. But, assuming that along the way, there are relatively objective staffs, whose politics are only this anticipation of what their bosses will find too objectionable too often, if there is too much approval or too much concentration or too much congestion. [If there is] too much neighborhood opposition of those voters who are going to be electing their bosses and seeing then [when they are] on their way to their car at the Publix [grocery store].

If the politics of it all, however, is understood at its own three levels—there is the politics of applying to a government that is against all growth, which would be negative politics.

WM: Uh-huh.

RW: The second level of politics is the anticipation politics, by staff, that I described first. The third political level is the raw political level of seven, or five folks who are elected, whose accountabilities are often do discern a lot of folks against in it the audience [and] very few folks for it in the audience. The applicant has a good case, but the neighbors seem to have brought so many folks out [that] the weight of the evidence may be outweighed by the number of folks that the neighbors have mustered, suggesting that the neighborhood is genuinely unwilling to accept that evidence, even as the staff has interpreted it.

WM: So I guess that often, public sentiment outweighs the hard facts.

RW: True.

WM: That's got to be pretty frustrating when that happens.

RW: Or challenging. Or rewarding, if you're a citizen and a land-use lawyer.

WM: (laughs) Could you elaborate on that?

RW: (laughs) Sure.

If in your heart-of-hearts you realize that this particular community is just not ready of the reality of—and or the good evidence—because either they don't understand the good evidence, or [they're] unwilling to listen to the good evidence, or to translate the good evidence into their communities next needs or vision.

Well it is **their** community. They do vote. If their elected officials feel, that despite the weight of the objective evidence, that the readiness of this particular community for this particular use, is not there— then that un-readiness often wins the day.

Our job is to help shape the vision into a demonstration [for] the community and the neighbors of that readiness. Fortunately we do occasionally actually have the ability to show the commissioners. [We have] the ability to muster their better angels and to help the community (as is any other [kind of] parenting) with some thing that the “neighborhood children” weren't ready for yet. Sometimes the commission actually says: “The weight of the evidence is here. And the neighbors are all against it, or most of them are against it. But they don't realize that the weight of the evidence is such that if this retail is not approved they will be driving five miles back to where we located retail five years ago. We'll have more congestion instead of less congestion. Let's approve this project's retail because it is closer to where more housetops have been recently built, rather than driving five miles back to where we allowed retail five years ago to where housetops were built ten years ago. Thereby achieve the goal of preventing congestion in this neighborhood, not by saying “no” to this development, but by saying “yes” to this development.

WM: How do you and your folks work to talk to neighborhood groups, community groups? Do you arrange meetings with them where you display [information]? Tell me about that.

RW: Sure. That's probably the best part of this job. It's to actually go out and figure what a community really feels and wants and fears. And why [they have those hopes and fears]. And whether or not there are diagnosable misunderstandings. Whether or not there are cures [for] some of the problems of that community. Whether or not there have been predecessors who have let [that] community down, or led a community on, or didn't deliver on their promises. To figure out whether it's a promise gap, or a credibility gap, or it's the receptiveness of the community to change gap. When you find out which it is you're able to go back and do some of that same analytical, and maybe [find] some new evidence they never even imagined. Show them new ways to “skin the cat.” New ways to figure out how to prevent congestion, as in my last example. Figure out how to lobby the city council to widen the roads, so they will be better off after the development than

before, because we helped lobby for the widening of that road. Or the new bridge, or whatever it was.

WM: Well, how do you conduct that research? How do you work with the community to discover what their objections are and their real needs may be?

RW: Well, we listen. We walk, talk [and] knock on doors. We go to community meetings. We attend their monthly neighborhood meeting. We listen. We ask questions. We sit with them one-on-one, two-on one, three-on-three. [We] may go to their home. May come in and just listen and then try to absorb how to go back with what it is that they've asked or what they've feared, or perhaps misunderstood. Then fit it in keeping [mindful] of where we're going, then go back and change our plan to fit where they'd really like to go instead of where we thought we ought to go (without them)—and go together.

WM: How often does this happen?

RW: Oh maybe every other night.

WM: (laughs) On a regular basis you get feedback from the communities?

RW: Yes.

WM: Is this feedback more often helpful or a hindrance?

RW: Always helpful. It's their community. Therefore it is not only helpful—it is essential. For it is their community. In one sense it is our community, where we are approved. And it is our community in the sense that we're already a landowner. [Clears throat]

But they've actually invested in a building that's already been approved and we're trying to get such an approval. So to honor their prior investment, to honor their prior feelings, to honor their current concerns is to (first of all) assume all of them are rightly based and mean well. Which most of them do. And since they mean well, there has to be some valuable truth in **whatever it is they say**. Even if at first it seems absurd, on closer reflection it is their genuine fear. Therefore it must be taken very, very seriously. [It must be] listened to, accounted for and addressed in your plan, if you can.

WM: Okay. How do you—kind of—I mean what you've been talking about, you're sort of mediating between the developer and the local people. Is it you, yourself that does the research or do you have [other people do the research]?

RW: We have one hundred and fifteen lawyers and about one hundred and fifty support people.

WM: Okay, so it is this whole network, whole cadre of lawyers and support people.

RW: Yes.

WM: Okay. I was talking to a developer, and this was up in another county. They had this development that they wanted to put in, but they had to sort of—I guess—I won't say work deals. Maybe that's not the right word. Maybe it is the right word, but not the one they'd want me to use. One of the commissioners kept making requirements from them. Like [he'd say] "We need a library. We're going to need a fire station." How would you—could you tell me more about that process, in working with commissioners to get a development through? I guess you'd call it trading? I'm not sure of the term for it.

RW: You mean public facilities?

WM: Yes.

RW: Umm—Sometimes a community happens to have a gnawing need [that's] unfundable. A developer can come in and run his performance and in finding the right combination of his performance, his financial statement, his financial budget, he can actually merge the deficits of a local government's budget on certain facilities that he is going to need anyway. And reconcile [at the same time] his budget with the city's budget. Together they constitute just the critical mass of a particular facility, like a school.

[A] school [could be built] eight years hence at current growth rates. Development contributes half the cost and it is built in four years, when a critical mass of students need it.

Houses are built. Kids accumulate. The school is ready four years earlier. The developer is paying. Gets impact fee credits against the school impact fees, so that he's building it. He's paying it a little earlier than he planned to, but his buyer's kids have a school when they need the school. We do that every day, almost every other hour.

We find something that we need together [with the government] and we pitch in and do our share in our year.

WM: Do the developers work to influence—how do they work to influence impact fees? It seems like if the impact fees were lower that would encourage development to the detriment of public services.

RW: And sometimes to the detriment of the salability their units. So, developers are not against every single impact fee. The unreasonable ones, that they can't see any benefit [to them] they will [oppose it]. Reasonable ones, [that] they do see the benefit of, they go silent or they will mildly support [them] privately.

Impact fees where they are very low and there is a very great need that the developer can not meet by himself, with his financial statement, his performance, he might be out there for

it. Because that increase is also his lifeblood, not just the community's rendition of that service lifeblood.

WM: I asked that question because one of the people I interviewed talked about how developers were working to keep impact fees down and that encouraged growth. I was struck by that, and I was hoping that you could share [your understanding of that].

RW: Well twenty years [ago] that was true. That low impact fees equals lower price, equals more growth here, for this particular developer and this particular community, versus the competitive communities where higher impact fees meant lost sales to them and more sales to us in the low impact fee zone, in a low impact fee area. That was traditional developmental math, twenty years ago. [In the last twenty years] that math has changed, to the point where the three layers I just described. Sometimes low impact fees also mean inadequate services, making it hard to sell houses, or shopping center space.

Therefore you don't want low, low, low impact fees. Ironically, because even as it lowers the price of your product, it also renders your product, perhaps unsalable, compared to neighborhoods that have moderate impact fees and adequate services.

WM: What do you see in the future for land use in the [area]? Since we're here in Hillsborough County but in the three county area—

Side 1 ends; side 2 begins.

WM:—what do you see as happening down the road?

RW: Well, I think in about five or ten years we will have rationalized the process so that remaining capacities will end up being almost rationed, in the sense that remaining capacities are going to be divided among those who contribute a certain share of the cost of the remaining—for the next round of capacity.

In other words, those who are willing to pay what the state laws now call a proportionate fair share will be able to proceed with their development. The governments will focus their resources, which have unfortunately been limited the past two decades, to enable the governments to get more bang for their buck, by spending money where the monies are not available from the private sector.

But where if they will spend it here, sacrificially with government money, they will tap into a reservoir of available developer money to compliment the private/public contribution, so that you go from [the place where] neither have enough money. (Ouch) To we've [got] half enough and you've [got] half enough. Together we can build a road that will get a second developer, third developer, fourth developer, fifth developer to reimburse us, in the government [as well] as the first—primary—developer to build a system that will enable all five of us developers to succeed and the government to build

something that they couldn't have built without partnering [the] five developers I named in my example.

That's the partnering of critical masses to assure that those areas, where there is not a prospect of a school or the prospect of a widened road, or the prospect of an adequate park to meet these needs. [This can assure they] will become an adequate park, school [or] road.

WM: Do you see development spreading on out into the county?

RW: Concentrating.

WM: Concentrating?

RW: Currently it's about half-and-half. We're on the tipping point of the seesaw, where half of the development now is concentrating back into the city. Partly because of the un-affordability of land, so people can't afford a yard any more, anyway. So the affordable housing crisis is yielding a whole other expectation, that you'll never see a yard. Therefore concentration is occurring, not of much out of enlightened compact urban growth, or anti-urban sprawl, or seeing the dangers of over spending for facilities for urban sprawl, but instead are the genius of coping with the affordable housing crisis is creating some of the concentrations near the existing utilities: water, sewer and roads.

The other half is life-style driven. That people still do want a yard. They are willing to drive an extra twenty minutes to have a yard. They'll have there yard and it's still affordable. [Some call it] urban sprawl, but if it is **your** drive to **your** dream house, with **your** dream yard, it's not urban sprawl at all. It's **your** right and **your** life style, and **your** personal choice. I shouldn't be labeling [it] urban sprawl, or anything else in your way.

WM: I was going to wrap-up, but that brings up another question, because one of the men I interviewed was talking about property rights. I asked him, "Where do your rights stop and the other person's begin?" Because he was talking about how development could negatively impact him, but he wanted to be able to develop [his property], if that was an option.

So could you talk to me about property rights and how you determine where one person's [rights] stop and another person's [rights] start. 'Cause [they don't] always [end] at the property line.

RW: If you are building a plant that belches substances that my children cannot safely breathe, your property right to build that plant has stopped at my children's nostrils. And my right to protect my children's [health] on my property, which I'd have to leave save them, is the point of the end of your property rights on your industrial facility next door to me.

If I in turn, turn the coin over and said when my property rights stopped on their way to you. If my children were allowed, by some law, to go over and play on the face of your most dangerous operation, then my property rights, my property and its recreational rights, stop on the edge of the proximity of your dangerous operations. Those are the ends of my recreational property rights and the beginning, again, of your industrial utilization property rights.

WM: It seems at that point that both sides would hire experts to support their arguments.

RW: Their respective case against the other.

WM: Right. Ahh, I suppose it's good that I don't have to make the decision.

Well, I've been throwing questions at you for the past hour. Is there any thing you want to comment on that I haven't asked about?

RW: I suppose in twenty or thirty years, they are going to look back and see if we "parented" the next two or three generations with an unyielding attention to the comprehensive plan, or if we indeed kept the comprehensive plan a living, breathing document that was translated from the "planningese," that is so hard to understand, into understandable, plain English like the mortgage and the real estate department, that says, "If you don't pay us back this money you've borrowed, we're going to have a garage sale and the house goes with the garage sale."

We have to translate "planningese," into everyday language for three reasons: A) So that people can understand whether they want that plan or not. B) Whether or not they want to devote their time to going down and either appearing in these city council and county commission chambers for or against a particular development as in or out of compliance with the directions of those comprehensive plans that they finally understand, and, C) Thirdly, to enable them to help shape the re-writing of [those plans]. How those plans steer the vision of the whole community and that fabric of that comprehensive plan. Otherwise there cannot be much help in improving that fabric unless they understand that fabric.

WM: Okay. I was going to ask if you can think of a good person for me to talk to in a community advocacy group?

RW: Sure, Margaret Vizzi [see Margaret Vizzi's interview with Bill Mansfield 10-0-06], V-I-Z-Z-I [spells] is in the phone book, under V-I-Z-Z-I. She's the quintessential community activist.

WM: Okay [writing name down]

RW: Another one is Deana Leavengood.

WM: Deana?

RW: [spelling] Deana, D-E-A-N-A Leavengood, L-E-A-V-E-N-G-O-O-D. Or Denise Layne. [spells] L-A-Y-N-E. These are the three consummate community activists.

WM: Okay, and they are all in the phonebook?

RW: They are, or my secretary Lynn Howe can get them for you. They all there are on my Q & A.

WM: Okay, I'd like to speak with them. Also, who would be so other land use attorneys to talk to?

RW: You could talk to Ted Taub [spells] T-A-U-B.

WM: I can spell Ted [chuckles]

RW: You might talk to David Mechanik [spells] M-E-C-H-A-N-I-K. He'd be good. Ted and David would probably be your best two.

WM: Okay. And I can get their phone numbers?

RW: From Lynn, also.

WM: And, again, I'll tell them that you set me on them.

RW: Sure, all five would be glad to talk to you.

WM: Okay, great. Well I appreciate that. And I always remind folks that the information you've shared with me will be deposited in the Special Collections of the University of South Florida Library for academic use, and research. We need your permission for people to have access to it, so I've got a release form I have to ask you to sign.

RW: Sure.

WM: Also I've been photographing everybody I interview, so do you mind if I take your picture?

RW: No problem.

WM: Okay, great. Let me stop this thing.

end of interview