

## PROMOTING GROWTH COMES AT PRICE FOR PARKER

By Ryan Burr, The News Herald, Panama City, Fla.

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Nov. 5--PARKER -- The Florida Department of Community Affairs wants all new development inside Parker city limits to grant an aviation easement for Tyndall Air Force Base. It also wants the Air Force and Federal Aviation Administration to sign off on all development plans in the city to ensure they do not interfere with the base's mission. The state agency's new requirements were revealed in its review of Parker's comprehensive land-use plan, which proposes increased density to spur residential and commercial development on Long Point. DCA deemed the increase noncompliant with state planning codes and laws, saying the city had not adequately addressed "coordination and compatibility" with Tyndall. City leaders are refusing to implement some of the recommendations. Imposing special development rules for southern parts of Long Point, the area closest to Tyndall's runway, is sufficient, said Parker Mayor Brenda Hendricks. An administrative law judge will hear the dispute on Jan. 18 and 19 in Parker City Hall. No need for local government Parker city attorney Tim Sloan said aviation easements permit the federal government to fly over a home and strips a resident of any legal recourse if noises and vibrations emanating from jets break windows or simply annoy homeowners. There is an exception -- if a plane barrels into a home -- but he said that is hardly a consolation. "They want you to give up your rights to the air above your home, and for no money," Sloan said. Home improvements, such as new roofing or erecting a fence, will be considered "new development" and require that property owners grant an aviation easement. It will be costly to the property owner, Hendricks said, because property owners have to hire an attorney. Equally troubling, in Sloan's assessment, is the DCA's recommendation that Tyndall review all proposed changes to Parker's comprehensive plan and land-development regulations. It wants the FAA to approve all building permit applications to ensure the height of developments do not obstruct Tyndall's operations. "If we have military installations approving all development, we might as well get rid of local governments," Sloan said. The DCA wants all Parker property, when advertised or contracted for sale or rent, to disclose that the property is within an area that will experience noise and other impacts from Tyndall operations. Hendricks said the city cannot keep tabs on everyone advertising a place for rent to see that they are providing noise notification. "We're trying to redevelop our community so we don't have all the rundown buildings," she said, explaining that the added development rules will deter people from rebuilding sections of Parker. Eyes on Parker Seeing the DCA's input on Parker's proposal, city officials here and elsewhere in Florida are alarmed over the potential loss of property rights and squelched local government authority in deciding development requests. Doug Wyckoff, a city attorney for Valparaiso in Okaloosa County, has closely followed the DCA response to Parker's proposed density increase. He believes a precedent could be established for all Florida communities. "Our city would be affected more than Parker. The flight paths to Eglin Air Force Base (make up) half of our city," he said. The DCA is an executive arm of the government which administers state law, Wyckoff said, but that does not afford the

agency "unbridled discretion to say what compatibility is" with surrounding land uses and operations. He questions the legality of a city requiring aviation easements for which property owners are not compensated. "When a power company wants to put an easement across your property, they buy or lease it from you," he said. Such a requirement, he said, also leaves the city legally vulnerable because of potential property value depreciation. The military, for instance, could limit density on vacant property that, according to its zoning, would allow a more intense build-out. If Parker were to proceed with its mixed-use density and height change without the DCA's blessing, the state could cut revenue-sharing and refuse eligibility for state grants and other funds, Wyckoff said. The DCA and other agencies review all community comprehensive plan changes affecting 10 acres or more. Parker seeks to increase the density allowed in a mixed-use zoning district -- which consists of 35 acres on the Long Point peninsula -- from 15 units per acre to 25. Building height would be capped at 120 feet. The limit now is 225 feet. Encroachment The state Senate approved legislation in 2004 which granted the DCA broad discretion in what policies it recommends to guarantee military installations and airports are not adversely affected by new development, or encroachment. Parker is the first Florida city whose land-use change is being held to the DCA's "test" for compatibility with a military base or airport, Hendricks said. Susan Poplin, DCA's acting regional planning administrator for North Florida, said aviation easements are part of a new set of standards devised after the 2004 law was approved. "We may have the same recommendations for other municipalities" as their landuse changes are reviewed, she said. Tyndall has a noise contour map that shows the noise levels specific areas can experience. Tyndall recommended development limitations in Parker where the decibel level is likely to exceed 65, Hendricks said. Only the southern half of Long Point, or about 56 acres, is within this zone. Lt. Amanda Ferrell, a Tyndall spokeswoman, said the DCA's comments reflect what Tyndall's concerns were. Last year, Tyndall's former wing commander, Brig. Gen. Jack B. Egginton, wrote to DCA, stating that it is possible that "any development or increase in the number of dwellings (in Long Point) could lead to a significant increase in noise complaints." As part of the density increase proposed, Sloan said, the city is requiring construction standards that drown out noise. On that section of Long Point, the city also says it would require noise disclosure forms be affixed to all real estate transfers and aviation easements with all building permit applications. Besides its military functions, Tyndall operates a radar, directing air traffic control for the Panama City-Bay County International Airport. Parker officials say their reluctance to adhere to the DCA's recommendations in no way shows disregard for maintaining Tyndall's safe operations. "We've proven that there will be no radar shadowing and no danger to any buildings," Sloan said. New territory Compatibility with Tyndall also has been a primary issue with a St. Joe Co.-proposed, 550-acre residential and commercial development in Mexico Beach the DCA is reviewing. The western boundary of the property is about 10 miles from Tyndall's runway, whereas the southern tip of Long Point in Parker is about 1.7 miles away. Still, the St. Joe development's proximity to the base prompted DCA to recommend that Mexico Beach require aviation easements with building permit applications within the 550 acres, plus other areas within the city, as deemed necessary, said Jorge Gonzalez, vice president of entitlements for St. Joe. The city has incorporated aviation easements into its land-use plan, along with requiring noise

disclosure forms affixed to all property deeds. Gonzalez said St. Joe has not dealt before with avigation easements, and Tyndall and Mexico Beach will decide the "applicability" of the easements.