

Brief chronology of how the issue of the Top Hat car dealership has been addressed by Walden Oaks.

We first heard about this proposal by Top Hat Auto in the late summer 2012.

In October the President of the Walden Oaks Board, Steve Utz, ask me to set up a meeting with Georgia Hiller to clarify the article in the Naples News where he was misquoted as saying the community had no objection to the application of the car dealership to replace King Richards Amusement Park. We met with Com. Hiller and Steve Utz explained that there was great discomfort in this neighborhood about the possibility of car dealership moving next door and that once the HOA Board met during the high season it would decide on the neighborhood's position. He got her advice on what it would take for us to have the Collier County Board of Commissioners reject the application. She explained that she would support us if we had a solid case based on fact and law...furthermore, she said we needed to let the process develop and attend the neighborhood hearings, prepare for the planning commission meeting in January and to keep her in the loop. Only by finding out the specifics of the application, the facts regarding the prospective dealership, she explained, could we know how best to protect our interests.

At the Neighborhood meeting in November at the Public Library on Orange Blossom, we heard from Davidson Engineering the outlines of the Top Hat proposal. Those who attended will remember that there was a variance of opinion among Walden Oaks residents present...many residents suggested this was not good for us...others felt a dealership would be an improvement over King Richards.

Once the High Season began and the full HOA Board met in December, the Board voted unanimously to resist the Top Hat Application and appointed a Commission to find the facts about what the process was, what our viable options were and how best to resist this purchase. (A Commission of Ken Paa, Vice President of the Walden Oaks Board, Paul Boileau and myself (David

Pezzullo)...was appointed to address this issue on the HOA's behalf. In mid January, Walden Oaks Board Treasurer, Larry Day, was asked to join the Commission.

We e-mailed commissioner Hiller updates of where the Walden Oaks HOA stood – resisting the Top Hat application for new use and circulating a petition among home owners to buttress that position... and met with her in early January. She encouraged us to get in touch with Mark Strain, Chairman of the Planning Commission, to learn about the relevant issues for the Planning Commission and how best to present our case at the January 17th meeting being held to consider the Top Hat application.

We met with Mark Strain before the Jan 17th Planning Commission Meeting, as he has stated on record. He discussed the process in detail and the specific criteria by which the application by Top Hat would be considered. *He explained that the 1989 Collier County Growth Management Plan (GMP), a central document guiding the Commission's decisions, grandfathered in King Richards as a preexisting C-4 use (semi-industrial – heavy commercial).* Based on the GMP, the central criteria for permitting any new C-4 use on the property - be it a hardware store or a car dealership - was if it represented less or an equal level of activity compared to the previous use. Equal or less activity would be measured by a number of factors including: traffic, water use, noise, etc.

According to water use and traffic studies reviewed and accepted by county planning officials the car dealership being proposed would be of significantly less intensity of activity than King Richards. This community argued at January 17 Planning Board meeting that though King Richards official hours are long, the reality was that the park operated sporadically....and by any reasonable measure a car dealership, representing a very significant financial investment, would bring considerably more activity---whether measured in lumens, decibels, pavement coverage, actual hours of activity, employee hours, chemicals/toxins used etc.

At the January 17 Planning commission meeting, chairman Strain pressed Top Hat to eliminate a number uses, including retreading, paint shop etc that would be objectionable to WO or push the standard of equal or less activity. Mr.

Strain was one of the two votes that did not recommend the application out of the 8 commissioners.

In an unusual move, following the Planning Commission meeting, Top Hat representatives agreed with Mr. Strain to meet with Walden Oaks reps to see if we could come to an accommodation. The 6 to 2 recommendation vote was then suspended and a revote on the Top Hat application was scheduled for February 7th after Top Hat and Walden Oaks tested negotiation.

The WO commission has met with the Top Hat reps twice since January 17. We have gathered facts and voiced concerns, without making any decisions regarding what this community should or will accept. That is up to the HOA board and the homeowners.

We presented to Top Hat the community's concerns regarding noise pollution, lighting, storage of waste chemicals, buffers, possible test driving in our neighborhood, delivery routes and hours, and traffic generated. We brought up signage, air tool and compressor noise, height and type of wall, types of foliage, intensity of the lamps in the front of the property etc. We have reviewed their blueprints in detail, clarifying distances, walls, tree buffers, lumens, building heights and distances of dealership activities from homes on Tannin Lane and our community pool. What emerged as the key sticking point is the car wash – with its loud air blowers - that would stand less than 300 feet from our key community asset, the pool. The intensity of lighting – particularly in the front of the property – was another important consideration.

Mr. Strain in the January 17 hearing had Top Hat commit to placing the air blowers on the West side of the car wash. We have since discussed moving the Wash to the far side of the property, and/or enclosing it to muffle noise, or even flipping the property. Top Hat reps have been willing to consider our concerns and have agreed to a number of points in principle. The Planning Commission Meeting will be another key opportunity to make them commit within the PUD (legally binding and enforceable) to change design to accommodate our concerns.

On a parallel track, we have corresponded with county planning officials, including Mr. Strain, to verify the validity of the traffic report that maintains a car dealership would produce less daily afternoon vehicle traffic than King Richard.

Meanwhile we have kept Com. Hiller in the loop by phone. She continues to encourage us to negotiate with Top Hat within the framework of the Planning Commission to see if we can reach a mutually beneficial arrangement...stressing that Mr. Zeller, the owner of the dealership, has a very good reputation and deep pockets.

To review the key facts the WO Commission has gathered:

- 1- King Richards – is a zoned as C-4 and therefore worth roughly 4 times as much an equal sized plot with a residential or light commercial designation; for example, the Naples View Property north of our entrance. Because it is zoned as C-4 there are over 150 heavy commercial and semi industrial uses that are admissible for this property;
- 2- The clustering of car dealerships near us anchored by the Top Hat proposal replacing King Richard – a concern we have expressed repeatedly – is exceedingly unlikely as there are no parcels zoned as C-4 nearby that could by code accommodate additional car dealerships;
- 3- Practically nobody in WO wished for a dealership on two sides of our property. Negotiating, however, we could perhaps assure that from our property we would not see, hear or smell any prospective dealership. This would represent in some regards an improvement over King Richards. This possibility would have to be tested then guaranteed within the binding and enforceable PUD. And perhaps negotiating along these lines – with the help of the planning commission and county commissioners – we could generate a particularly residential-friendly dealership next door.