

**MEETING: BOARD OF COUNTY COMMISSIONERS, ZONING MATTERS**

**1. CALL TO ORDER:** Board of County Commissioners sitting for the purpose of exercising zoning powers, Zoning Meeting of January 3, 2002, at 9:34 a.m., in the Palm Beach County Governmental Center, West Palm Beach, Florida.

**1.A. ROLL CALL**

**MEMBERS AND OFFICERS PRESENT:**

Chair Warren H. Newell  
Vice-Chair Carol A. Roberts  
Commissioner Burt Aaronson – Absent  
Commissioner Addie L. Greene  
Commissioner Mary McCarty  
Commissioner Karen T. Marcus  
Commissioner Tony Masilotti – Absent  
Assistant County Attorney Robert P. Banks  
Deputy Clerk Joan Haverly

**1.B.1. INVOCATION** – Commissioner Greene

**1.B.2. PLEDGE OF ALLEGIANCE**

**1.C. REMARKS OF THE CHAIR**

The Board of County Commissioners has convened to consider the following applications for Future Land Use Map Amendments, Official Zoning Map Amendments, Conditional Uses, Planned Developments, Development Order Amendments, Waiver Requests, Status Reports for Compliance with Time Limitations and Conditions of Approval, and amendments to the Palm Beach Unified Land Development Code, the recommendations of the Land Use Advisory Board, Citizens Task Force, Land Development Regulation Commission, and Zoning Commission pursuant to Chapter 163, Florida Statutes; Chapter 125, Florida Statutes; the Palm Beach County Comprehensive Plan; the Palm Beach County Unified Land Development Code; and other authority vested in the Board. This meeting is being held on January 3, 2002, at 9:30 a.m., in the County Commission Chambers, 6<sup>th</sup> Floor, 301 North Olive Avenue, West Palm Beach, Florida.

**1.D. PROOF OF PUBLICATION APPROVED 1-3-2002**

**MOTION to receive and file proofs of publication 337687, 5828660, 5898506, and 5897906. Motion by Commissioner Marcus, seconded by Commissioner Roberts, and carried 5-0. Commissioners Aaronson and Masilotti absent.**

**1.F.1. AMENDMENTS TO AGENDA**

<u>Page</u>	<u>Item</u>	<u>Petition/Change</u>
10	4.C.21.	DOA89-52(C) (Palm Beach Aggregates Hydro Storage): Amend motions.

(CLERK'S NOTE: The following discussion took place immediately following consideration of item 2.; see page 3.)

**1.G. UNSCHEDULED ITEM**

**1.G.1.**

DENIAL IN ZONING MEETING OF NOVEMBER 29, 2001, OF PETITION CA2001-025 (CHURCH OF GOD OF PROPHECY) OF AZINTA THOMPSON, BY KEVIN MCGINLEY, AGENT, FOR A CLASS A CONDITIONAL USE (CA) TO ALLOW A CHURCH OR PLACE OF WORSHIP ON THE 0.92-ACRE PROPERTY LOCATED APPROXIMATELY 100 FEET EAST OF HAVERHILL ROAD ON THE NORTH SIDE OF VILMA LANE. APPROVED RECONSIDERATION OF ITEM AND SCHEDULING OF ITEM ON JANUARY 31, 2002, AGENDA -- 1-3-2002

Commissioner McCarty recommended that the November 29, 2001, action of the board on the petition of Church of God of Prophecy be reconsidered and the item be placed on the January 31, 2002, agenda. She noted she was on the prevailing side on the vote to deny the item at the November meeting. Ms. McCarty said that not all interested parties were present because the meeting went faster than anticipated. Furthermore, the item was in Commissioner Masilotti's district at that time; now it was in Commissioner Roberts's district. Reconsideration, she said, would allow for a full discussion with residents, including Commissioner Roberts who had been absent at the previous meeting.

**MOTION to RECONSIDER Petition CA2001-025 and place it on the January 31, 2002, agenda. Motion by Commissioner McCarty and seconded by Commissioner Greene.**

Zoning Director William C. Whiteford said staff would advertise the item and notify property owners.

**UPON CALL FOR A VOTE, the motion carried 5-0. Commissioners Aaronson and Masilotti absent.**

**2. POSTPONEMENTS AND WITHDRAWALS**

**2.A. POSTPONEMENTS**

**POSTPONEMENTS - CONTINUED**

**2.A.2.**

**PETITION 84-159**

POSTPONEMENT OF PETITION PDD/DOA84-159(B) (HATTIE'S LANDING) OF CHRISTOPHER S. DOYLE, BY JOSEPH J. VERDONE, AGENT, A PETITION FOR AN OFFICIAL ZONING MAP AMENDMENT TO A PLANNED DEVELOPMENT DISTRICT (PDD) FROM MULTI-FAMILY RESIDENTIAL (MEDIUM DENSITY) (RM) TO MULTIPLE USE PLANNED DEVELOPMENT (MUPD) AND FOR A DEVELOPMENT ORDER AMENDMENT (DOA) TO ADD LAND AREA AND SQUARE FOOTAGE TO THE 3.97-ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF ELLISON WILSON ROAD AND PGA BOULEVARD. (P.O.P. 5828660 AND 5898506) POSTPONED TO JANUARY 31, 2002 -- 1-3-2002

**2.A.3.**

**PETITION 2001-017**

POSTPONEMENT OF PETITION Z/CA2001-017 (10<sup>TH</sup> AVENUE/BOUTWELL AMOCO) OF BP AMOCO, BY NICK NICHOLS, AGENT, A PETITION FOR AN OFFICIAL ZONING MAP AMENDMENT FROM MULTI-FAMILY RESIDENTIAL (HIGH DENSITY) (RH) TO GENERAL COMMERCIAL (CG) AND FOR A CLASS A CONDITIONAL USE (CA) TO ALLOW A CONVENIENCE STORE WITH GASOLINE SALES ON THE 1.14-ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF BOUTWELL AVENUE AND 10<sup>TH</sup> AVENUE NORTH. (P.O.P. 5748955 AND 5822213 [11-29-2001]) POSTPONED TO JANUARY 31, 2002 -- 1-3-2002

**MOTION to POSTPONE items 2.A.1. and 2.A.3. to the dates indicated. Motion by Commissioner Roberts and seconded by Commissioner Greene.**

PUBLIC COMMENT: None

**UPON CALL FOR A VOTE, the motion carried 5-0. Commissioners Aaronson and Masilotti absent.**

**2.B. WITHDRAWALS – None**

(CLERK'S NOTE: Discussion of an unscheduled item took place at this time; see page 2.)

**3. CONSENT AGENDA**

**3.A. REQUESTS TO PULL ITEMS FROM CONSENT – None**

**3.B. ZONING PETITIONS**

**3.B.4.**

**RESOLUTION R-2002-0001  
(REVOKES R-91-989)**

## **CONSENT AGENDA - CONTINUED**

### **3.B.5.**

**a.**

#### **RESOLUTION R-2002-0002**

RESOLUTION FOR PETITION PDD82-22(A) (MALLARDS LANDING) OF MALLARDS LANDING LLC, BY ROBERT E. BASEHART, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT TO A PLANNED DEVELOPMENT DISTRICT (PDD) FROM MULTI-FAMILY RESIDENTIAL (HIGH DENSITY) (RH) TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD) FOR THE 10.33-ACRE PROPERTY LOCATED 500 FEET SOUTH OF WESTGATE AVENUE ON THE EAST SIDE OF QUAIL DRIVE. (P.O.P. 5828660 AND 5898506) ADOPTED 1-3-2002

**b.**

#### **RESOLUTION R-2002-0003 (AMENDS R-82-537)**

RESOLUTION FOR PETITION DOA82-22(A) (MALLARDS LANDING) OF MALLARDS LANDING LLC, BY ROBERT E. BASEHART, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT (DOA) TO ADD LAND AREA (0.93 ACRE) AND UNITS (3) TO THE 160-UNIT PLANNED UNIT DEVELOPMENT ON 10.33 ACRES LOCATED 500 FEET SOUTH OF WESTGATE AVENUE ON THE EAST SIDE OF QUAIL DRIVE. (P.O.P. 5828660 AND 5898506) ADOPTED WITH CONDITIONS 1-3-2002

### **3.C. STATUS REPORTS**

#### **3.C.6.**

#### **PETITION 80-174**

STATUS REPORT SR 1980-174A FOR RESOLUTION R-2001-1862 OF PETITION 80-174(C) (DELRAY COMMUNITY HOSPITAL) OF TENET HEALTH CARE CORPORATION, PETITIONER-PROPERTY OWNER, FOR A TIME EXTENSION UNTIL OCTOBER 22, 2003. THE 36.18-ACRE PROPERTY IS LOCATED 900 FEET WEST OF MILITARY TRAIL ON THE SOUTH SIDE OF LINTON BOULEVARD AND IS ZONED INSTITUTIONAL PUBLIC FACILITY (IPF). APPROVED 1-3-2002

#### **3.C.7.**

#### **PETITION 85-89**

STATUS REPORT SR 85-89.5 FOR RESOLUTIONS R-90-1440 AND R-90-1441 OF PETITION 85-89(A) (GOLDEN LAKES) OF WILLIAM R. BOOSE III, TRUSTEE, PETITIONER (ROBERT W. MCDONALD, PROPERTY OWNER), FOR A TIME EXTENSION UNTIL OCTOBER 23, 2003. THE 21.5-ACRE PROPERTY IS LOCATED ON THE SOUTH SIDE OF OKEECHOBEE BOULEVARD, NORTH SIDE OF BELVEDERE ROAD, AND EAST AND WEST SIDES OF GOLDEN LAKES BOULEVARD AND IS ZONED SINGLE-FAMILY RESIDENTIAL (RS) WITH A SPECIAL EXCEPTION FOR A PLANNED UNIT

## CONSENT AGENDA - CONTINUED

### 3.C.8.

### PETITION 88-99

STATUS REPORT SR 88-99.7 FOR RESOLUTIONS R-89-1233 AND R-89-1234 OF PETITION 88-99 (SALICK HEALTH CARE) OF H.A.S. LAND DEVELOPMENT INC., PETITIONER (SALICK HEALTH CARE, INC., PROPERTY OWNER), TO: (1) REVOKE CONCURRENCY FOR THE UNBUILT PORTION OF RESOLUTIONS R-89-1233, R-89-1234, AND R-96-7; (2) EXEMPT RESOLUTIONS R-89-1233, R-89-1234, AND R-96-7 FROM FURTHER SECTION 5.8 REVIEW; AND ADOPT A RESOLUTION TO AMEND CONDITIONS OF APPROVAL (ARCHITECTURAL). THE 5.22-ACRE PROPERTY IS LOCATED 0.2 MILE NORTH OF 212<sup>TH</sup> STREET ON THE EAST SIDE OF STATE ROAD 7 (U.S. 441) AND IS ZONED SPECIALIZED COMMERCIAL (CS) WITH A SPECIAL EXCEPTION TO AMEND AND EXPAND THE SITE PLAN FOR A PLANNED OFFICE PARK TO REDESIGN THE SITE, INCREASE THE BUILDING SQUARE FOOTAGE, INCREASE THE ACREAGE, AND ALLOW MEDICAL/DENTAL OFFICES AND A FUNERAL HOME. POSTPONED TO MARCH 28, 2002 -- 1-3-2002

Diane Knight, agent, requested a 90-day postponement in order to resolve certain matters with the former property owner.

Zoning Director Whiteford indicated that staff had no objection to the request. Principal Planner Linda Monroe explained staff's position on the matter.

**MOTION to POSTPONE item 3.C.8. for 90 days (March 28, 2002). Motion by Commissioner Roberts and seconded by Commissioner Marcus.**

PUBLIC COMMENT: None

**UPON CALL FOR A VOTE, the motion carried 5-0. Commissioners Aaronson and Masilotti absent.**

### 3.C.9.

### RESOLUTION R-2002-0004 (AMENDS R-91-1186)

RESOLUTION FOR STATUS REPORT SR 91-30.3 FOR RESOLUTION R-91-1186 OF PETITION 91-30 (CENTRAL BAPTIST CHURCH) OF CENTRAL BAPTIST CHURCH OF JUPITER FLORIDA, INC., PETITIONER-PROPERTY OWNER, TO ADOPT A RESOLUTION TO AMEND CONDITIONS OF APPROVAL (ARCHITECTURAL) AND APPROVE A TIME EXTENSION UNTIL NOVEMBER 9, 2003, TO COMMENCE DEVELOPMENT. THE 4.5-ACRE PROPERTY IS LOCATED AT THE SOUTHWEST CORNER OF LOXAHATCHEE RIVER ROAD AND ROEBUCK ROAD AND IS ZONED SINGLE-FAMILY RESIDENTIAL (RS) WITH A SPECIAL EXCEPTION TO ALLOW A CHURCH/SANCTUARY AND ACCESSORY BUILDINGS. ADOPTED WITH CONDITIONS 1-3-2002

## **CONSENT AGENDA - CONTINUED**

### **3.C.10.**

### **RESOLUTION R-2002-0005 (AMENDS R-92-364)**

RESOLUTION FOR STATUS REPORT SR 91-42.5 FOR RESOLUTION R-92-364 OF PETITION 91-42 (FAITH UNITED METHODIST CHURCH) OF METHODIST CHURCH BOARD OF MISSIONS AND CHURCH EXTENSION, INC., PETITIONER (FAITH UNITED METHODIST CHURCH OF BOYNTON BEACH OF FLORIDA, INC., PROPERTY OWNER), TO ADOPT A RESOLUTION TO AMEND CONDITIONS OF APPROVAL (ARCHITECTURAL) AND APPROVE A TIME EXTENSION UNTIL NOVEMBER 2, 2003, TO COMMENCE DEVELOPMENT. THE 10.17-ACRE PROPERTY IS LOCATED 600 FEET EAST OF JOG ROAD ON THE SOUTH SIDE OF BOYNTON BEACH BOULEVARD AND IS ZONED AGRICULTURAL RESIDENTIAL (AR) WITH A SPECIAL EXCEPTION TO PERMIT A CHURCH, ACCESSORY BUILDINGS AND STRUCTURES, AND A DAY CARE CENTER (MAXIMUM 60 CHILDREN). ADOPTED WITH CONDITIONS 1-3-2002

### **3.C.11.**

### **PETITION 97-63**

STATUS REPORT SR 1997-063 FOR RESOLUTION R-98-569 OF PETITION 97-63 (FARMERS DAUGHTER RETAIL NURSERY) OF JULIE WIESNER, PETITIONER (ROSA A. MARRON ET AL., PROPERTY OWNER), TO DIRECT CODE ENFORCEMENT TO CONTINUE WITH ONGOING CODE ENFORCEMENT BOARD ACTION AND TO ADD AN ADDITIONAL CITATION FOR FAILURE TO COMPLY WITH CONDITION E.3.B. (MEDIAN LANDSCAPING). THE 6.12-ACRE PROPERTY IS LOCATED 500 FEET EAST OF F ROAD ON THE NORTH SIDE OF SOUTHERN BOULEVARD AND IS ZONED AGRICULTURAL RESIDENTIAL (AR) WITH A CLASS A CONDITIONAL USE (CA) TO ALLOW A RETAIL NURSERY. APPROVED 1-3-2002

(CLERK'S NOTE: Items 3.C.12. and 3.C.13. were considered together.)

### **3.C.12.**

### **PETITION 98-21**

STATUS REPORT SR 1998-21 FOR RESOLUTIONS R-98-1806 AND R-98-1807 OF PETITION 98-21 (CONGRESS PARK II MEDICAL CENTER) OF ROBERT WHITAKER, TRUSTEE, PETITIONER-PROPERTY OWNER, TO ADOPT A RESOLUTION TO AMEND CONDITIONS OF APPROVAL (TRAFFIC PERFORMANCE STANDARDS [TPS]) IN RESOLUTION R-98-1807 AND APPROVE A TIME EXTENSION UNTIL OCTOBER 22, 2003, TO COMMENCE DEVELOPMENT. THE 2.98-ACRE PROPERTY IS LOCATED 0.1 MILE WEST OF CONGRESS AVENUE ON THE SOUTH SIDE OF 6<sup>TH</sup> AVENUE SOUTH AND IS ZONED COMMERCIAL LOW OFFICE (CLO) WITH A CLASS A CONDITIONAL USE (CA) TO ALLOW A PROFESSIONAL/MEDICAL OFFICE. POSTPONED TO FEBRUARY 28, 2002 -- 1-3-2002

## CONSENT AGENDA - CONTINUED

### 3.C.13.

### PETITION 98-22

STATUS REPORT SR 1998-022 FOR RESOLUTIONS R-98-1808 AND R-98-1809 OF PETITION 98-22 OF JERRY D. MCCOY TRUST, PETITIONER-PROPERTY OWNER, TO ADOPT A RESOLUTION TO AMEND CONDITIONS OF APPROVAL (TRAFFIC PERFORMANCE STANDARDS [TPS]) IN RESOLUTION R-98-1809 AND APPROVE A TIME EXTENSION UNTIL OCTOBER 22, 2003, TO COMMENCE DEVELOPMENT. THE 3.3-ACRE PROPERTY IS LOCATED 0.2 MILE WEST OF CONGRESS AVENUE ON THE SOUTH SIDE OF 6<sup>TH</sup> AVENUE SOUTH AND IS ZONED COMMERCIAL LOW OFFICE (CLO) WITH A CLASS A CONDITIONAL USE (CA) TO ALLOW A PROFESSIONAL/MEDICAL OFFICE. POSTPONED TO FEBRUARY 28, 2002 -- 1-3-2002

Kevin McGinley, agent, requested a postponement to the February 28, 2002, meeting for items 3.C.12. and 3.C.13. in order to meet with staff on a new traffic-related condition.

Zoning Director Whiteford supported the request.

**MOTION to POSTPONE item 3.C.12. to February 28, 2002. Motion by Commissioner Roberts and seconded by Commissioner Greene.**

PUBLIC COMMENT: None

**UPON CALL FOR A VOTE, the motion carried 5-0. Commissioners Aaronson and Masilotti absent.**

**MOTION to POSTPONE ITEM 3.C.13. to February 28, 2002. Motion by Commissioner McCarty and seconded by Commissioner Marcus.**

PUBLIC COMMENT: None

**UPON CALL FOR A VOTE, the motion carried 5-0. Commissioners Aaronson and Masilotti absent.**

### 3.C.14.

### PETITION 81-10

STATUS REPORT CR 81-10/2 FOR RESOLUTION R-99-984 OF PETITION 81-10 OF TARRA-MAR DEVELOPMENT CORPORATION, PETITIONER (FRANCALBY CORPORATION, PROPERTY OWNER), TO DIRECT CODE ENFORCEMENT TO CITE THE PROPERTY OWNER FOR FAILURE TO COMPLY WITH CONDITION 2. THE 1.6-ACRE PROPERTY IS LOCATED 400 FEET WEST OF INTERSTATE 95 ON THE NORTH SIDE OF HYPOLUXO ROAD AND IS ZONED GENERAL COMMERCIAL (CG) WITH A SPECIAL EXCEPTION TO ALLOW A GASOLINE SERVICE STATION. APPROVED 1-3-

**CONSENT AGENDA - CONTINUED**

**3.D. RECEIVE AND FILE CORRECTIVE RESOLUTION FOR STATUS REPORT (ZONING COMMISSION RESOLUTION)**

**3.D.15. PETITION 96-20**

RECEIVE AND FILE ZONING COMMISSION RESOLUTION ZR-2001-009 CORRECTING ZONING COMMISSION RESOLUTION ZR-2001-008 (STATUS REPORT SR96-20.2 FOR PETITION 96-20 OF PAMELA CRAWFORD [COLOR GARDEN NURERY]) BY ADDING A LEGAL DESCRIPTION FOR THE PARCEL OF LAND LYING IN LOT 2, BLOCK 5, PALM BEACH RANCHES UNRECORDED, LOCATED IN SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST. APPROVED 1-3-2002

**3.E. ABANDONMENT RESOLUTION**

**3.E.16. RESOLUTION R-2002-0006 (REVOKES R-89-600)**

RESOLUTION FOR PETITION 87-128 TO ABANDON THE SPECIAL EXCEPTION TO PERMIT A PLANNED INDUSTRIAL PARK DEVELOPMENT (PIPD) TO KENNETH G. PARENT AND CAROL A. PARENT FOR A PARCEL OF LAND LYING IN LOT 21, OKEECHOBEE GARDEN ESTATES, LOCATED 0.1 MILE NORTH OF OKEECHOBEE BOULEVARD ON THE EAST SIDE OF SPAFFORD AVENUE. ADOPTED 1-3-2002

**MOTION to approve all items on the consent agenda as amended and adopt resolutions affirming the applicable actions. Motion by Commissioner Marcus and seconded by Commissioner Roberts.**

PUBLIC COMMENT: None

**UPON CALL FOR A VOTE, the motion carried 5-0. Commissioners Aaronson and Roberts absent.**

**4. REGULAR AGENDA**

**4.A. ITEMS PULLED FROM CONSENT AGENDA – None**

**4.B. SMALL SCALE AMENDMENT AND ZONING PETITION**

(CLERK'S NOTE: Items 4.B.17. and 4.B.18. were considered together.)

**4.B.17. APPLICATION 2002-SCA 71 COM 2**

DENIAL OF APPLICATION 2002-SCA 71 COM 2 (MILITARY TRAIL/PURDY LANE) OF GEORGE F. CASSELL, CHERYL CASSELL, NEIL STRINGER,

## REGULAR AGENDA - CONTINUED

### 4.B.18.

### PETITION 2001-051

RESOLUTION FOR PETITION Z/COZ2001-051 (MILITARY PURDY REZONING) OF SOUTHERN DEVELOPMENT SERVICES, BY KILDAY & ASSOCIATES, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM MULTI-FAMILY RESIDENTIAL (MEDIUM DENSITY) (RM) TO GENERAL COMMERCIAL (CG) WITH A CONDITIONAL OVERLAY ZONE (COZ) FOR THE 2.97-ACRE PROPERTY LOCATED 100 FEET NORTH OF PURDY LANE ON THE WEST SIDE OF MILITARY TRAIL. (P.O.P. 5828660 AND 5898506) POSTPONED TO JANUARY 31, 2002 -- 1-3-2002

Kieran J. Kilday, agent, requested a 30-day postponement on items 4.B.17. and 4.B.18. in order to continue working with staff on certain landscaping issues.

Zoning Director Whiteford explained a 30-day postponement meant the items would be scheduled for the January 31, 2002, meeting.

**MOTION to POSTPONE item 4.B.17. to the January 31, 2002, meeting. Motion by Commissioner Roberts and seconded by Commissioner Greene.**

PUBLIC COMMENT: None

**UPON CALL FOR A VOTE, the motion carried 5-0. Commissioners Aaronson and Masilotti absent.**

**MOTION to POSTPONE item 4.B.18. to the January 31, 2002, meeting. Motion by Commissioner Roberts and seconded by Commissioner Greene.**

PUBLIC COMMENT: None

**UPON CALL FOR A VOTE, the motion carried 5-0. Commissioners Aaronson and Masilotti absent.**

### 4.C. ZONING PETITIONS

#### 4.C.19.

#### RESOLUTION R-2002-0007

RESOLUTION FOR PETITION PDD99-36 (COCONUT PLAZA MUPD) OF JOE FEARNLEY, TRUSTEE, BY RICHARD W. CARLSON, JR., AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT TO A PLANNED DEVELOPMENT DISTRICT (PDD) FROM AGRICULTURAL RESIDENTIAL (AR) TO MULTIPLE USE PLANNED DEVELOPMENT (MUPD) WITH A FINANCIAL INSTITUTION AS A REQUESTED USE FOR THE 3.98-ACRE PROPERTY LOCATED AT THE SOUTHEAST CORNER OF MILITARY TRAIL AND COCONUT LANE. (P.O.P. 5828660 AND 5898506) ADOPTED WITH CONDITIONS AS AMENDED 1-31-2002

## REGULAR AGENDA - CONTINUED

### 4.C.19. - CONTINUED

- ? Revised condition C.3 (second sentence):

The pharmacy building, except for the northwestern entry/front portion of the building, shall not exceed 30.5 feet. The northwestern portion of the pharmacy building shall increase to a maximum of 36 feet to accommodate a cupola.

- ? Revised condition F.1:

All native vegetation that is to be planted as a result of the settlement agreement, which is not utilized in the planting on the buffer area along the eastern property line, shall be planted consistent with the location specified in the revised settlement agreement.

- ? Revised condition K.2:

Ms. Kwok said the foundation planter strip would be 6.5 feet wide, not 8 feet wide.

- ? Revised condition K.6:

Ms. Kwok said the width of the landscape median would be 10 feet, not 15 feet.

- ? Revised condition K.7.d (added language):

The above planting in conditions 7.a through 7.c shall not be counted towards planting for the focal point.

- ? Added condition K.7.e:

Should a planter be used as a focal point, the planter shall have a minimum height of 18 inches, a minimum diameter of 12 feet, and a decorative cap with a minimum width of 18 inches. Planting within the planter shall consist of one specimen palm.

Ms. Kwok added that the palm would be Medjool or Canary Date with appropriate shrubs and groundcovers.

- ? Added condition L.5:

Ms. Kwok said that staff recommended decorative freestanding and wall-mounted light fixtures and that prior to final Development Review Committee approval, the petitioner would have to submit pictures and photographs of the light fixtures for staff review and approval.

## REGULAR AGENDA - CONTINUED

### 4.C.19. - CONTINUED

- ? Revised condition O.1:

Ms. Kwok said that staff would add language saying that no changeable copies and product identification shall be allowed on the freestanding signs and on the wall signs. The following language would also be added: "Signs may not utilize exposed neon nor shall exposed neon be allowed as an architectural feature."

- ? Added condition (unidentified):

Ms. Kwok said that prior to final Development Review Committee approval of the site plan, the condition would require the petitioner entering into an agreement with the homeowners of Coco Pine Estates to mitigate the impact.

Commissioner McCarty emphasized the importance of executing the restrictive covenant before moving forward in the process.

Richard W. ("Chip") Carlson, Jr., agent, requested the following condition modifications:

- ? Condition K.7.e:

Mr. Carlson suggested limiting the decorative cap of the focal point to 8 inches instead of 18 inches in order to discourage loitering after the pharmacy's 10:00 p.m. closing.

Commissioners McCarty and Roberts disagreed with the suggestion, noting that the reduction would not achieve the result desired.

- ? Condition L.5 (first sentence):

Decorative freestanding and wall-mounted lighting fixtures shall be provided for the site and the building on the columns at the entry feature.

Mr. Carlson confirmed to Ms. Kwok that the wall-mounted fixtures were on building's columns and were restricted to the northwestern portion of the CVS pharmacy building.

(CLERK'S NOTE: Commissioner Greene left the meeting.)

- ? Condition O.1.c (last sentence):

No changeable copies and product identification shall be allowed. Signs may

## REGULAR AGENDA - CONTINUED

### 4.C.19. - CONTINUED

(CLERK'S NOTE: Commissioner Greene rejoined the meeting.)

Mr. Johnson expressed appreciation for the petitioner's efforts to satisfy the community's concerns, noting that the petitioner's landscaping proposal was extremely well endorsed by the HOA. He said the group's remaining reservations concerned fairly minor architectural concepts, which would be addressed with staff and the petitioner.

Commissioner McCarty stated that the residents would be closely involved with the architecture and paint colors.

**MOTION to adopt a resolution approving the request for a zoning map amendment to a planned development district from AR to MUPD with a financial institution as a requested use, subject to conditions as amended. Motion by Commissioner McCarty, seconded by Commissioner Marcus, and carried 5-0. Commissioners Aaronson and Masilotti absent.**

### 4.C.20.

### RESOLUTION R-2002-0008

RESOLUTION FOR PETITION PDD80-119(A) (PARKWOOD ESTATES PUD) OF PARKWOOD ESTATES INC., BY JOSEPH GILBERTI, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT TO A PLANNED DEVELOPMENT DISTRICT (PDD) FROM SINGLE-FAMILY RESIDENTIAL (RS) TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD) ON THE 30.08-ACRE PROPERTY LOCATED 1,400 FEET WEST OF SANSBURY'S WAY ON THE SOUTH SIDE OF OKEECHOBEE BOULEVARD. (P.O.P. 5828660 AND 5898506) ADOPTED WITH CONDITIONS AS AMENDED 1-3-2002

Planner William Cross stated that conditions B.1 through B.4 recommended connectivity to the Breakers West planned unit development on the south and to Celebration Community Church on the east. It was the ultimate decision of the Board of County Commissioners (BCC), however, whether to require this connectivity or to delete it from the site. Mr. Cross and Zoning Director Whiteford confirmed Commissioner McCarty's remark that the neighbors did not want the connectivity to their property. Commissioner Roberts said she believed that the board's intent of including interconnectivity in the land use code was its use in new projects, not between decades-old projects and new projects.

Joseph Gilberti, agent, objected to conditions B.1 through B.4, stating that connectivity between old and new projects was inappropriate. Mr. Whiteford said he wished to state for the record that the agent had not objected to the conditions at the Zoning Commission meeting and that the Zoning Commission had agreed to leave the conditions in and let the Board of County Commissioners address the issue.

## REGULAR AGENDA - CONTINUED

### 4.C.20. - CONTINUED

Mr. Baumann informed the board that the committee approved the project with the exception of connectivity between it and Breakers West. Were interconnectivity approved, he said, persons entering the Breakers West community might not obey the development's rules and regulations, such as for traffic.

Hugh William ("Bill") Perry, agent for Breakers West Association and Breakers West Development Corporation, requested construction of a deceleration lane on Okeechobee Boulevard in order to prevent a dangerous merge condition from developing between traffic, particularly construction traffic, and Breakers West residents. He added that Parkwood Estates and Breakers West were negotiating an agreement for the former to connect to the county's water and sewer system used by Breakers West, conditioned on the petitioner providing additional landscaping on the Breakers West side of the fence. He said that negotiation was proceeding on the turn lane with the utility connection.

Engineering Assistant Jim Choban confirmed Mr. Perry's remark that a traffic study indicated no need for a right-turn lane. It could be included later, he said, if the two parties agreed. Commissioner Roberts suggested that the issue of the turn lane be left alone since the county would be widening Okeechobee Boulevard in fiscal year 2003.

**MOTION to adopt a resolution approving the request for a zoning map amendment to a planned development district from RS to PUD, subject to conditions. Motion by Commissioner Roberts and seconded by Commissioner Greene.**

In response to a question by Commissioner Roberts, Mr. Whiteford said the conditions on interconnectivity needed to be addressed.

**AMENDED MOTION to include the deletion of conditions B.1 through B.4. The maker and seconder agreed.**

Commissioner Marcus said she would support the motion except for the deletion of interconnectivity. Every time the issue came before the board, the commissioners voted to delete it. It needed to be kept, she said.

**UPON CALL FOR A VOTE, the motion carried 4-1. Commissioner Marcus opposed. Commissioners Aaronson and Masilotti absent.**

### 4.C.21

a.

**RESOLUTION R-2002-0009  
(AMENDS R-2002-1235)**

**REGULAR AGENDA - CONTINUED**

**4.C.21. - CONTINUED**

**b.**

**RESOLUTION R-2002-0010  
(SEE R-2002-0009)**

RESOLUTION FOR PETITION CA89-52(C) (PALM BEACH AGGREGATES HYDRO STORAGE) OF PALM BEACH AGGREGATES, INC., BY GARY M. BRANDENBURG, JOSEPH J. VERDONE, AND KIERAN J. KILDAY, AGENTS, FOR A CLASS A CONDITIONAL USE (CA) TO ALLOW AN ELECTRICAL POWER FACILITY BASED UPON A DETERMINATION BY THE BOARD OF COUNTY COMMISSIONERS THAT THE REQUEST MEETS COMPREHENSIVE PLAN AND UNIFIED LAND DEVELOPMENT CODE CRITERIA TO PERMIT THIS NON-RESIDENTIAL USE IN A RESIDENTIAL AREA. THE 3,044-ACRE PROPERTY IS LOCATED 3 MILES WEST OF SEMINOLE PRATT WHITNEY ROAD ON THE NORTH SIDE OF SOUTHERN BOULEVARD. (P.O.P. 5828660 AND 5898506) ADOPTED (SUBJECT TO CONDITIONS CONTAINED IN RESOLUTION R-2000-0009) 1-3-2002

Commissioner Newell announced that family illness required Commissioner Masilotti to be out of town and that Mr. Masilotti requested that the board continue this item to the January 8 regular meeting. Mr. Newell said he needed to make a disclosure before the board acted on Mr. Masilotti's request.

Commissioner Newell stated that he would abstain from voting on item 4.C.21. He explained that Indian Trails Improvement District (ITID) and Palm Beach Aggregates have been involved in land development activities on this site for regional water storage. The engineering firm of SFRN (Shalloway Foy Rayman & Newell, Inc.) is the engineer of record for ITID, and approval of this item may inure to the firm's gain. He would abstain from the vote, he said, because he has a material interest in SFRN and wished to avoid any possibility of conflict of voting.

(CLERK'S NOTE: Commissioner Newell left the meeting.)

(CLERK'S NOTE: Following the meeting, Form 8B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers was received from Commissioner Newell's office for filing pursuant to Section 112.3143, Florida Statutes.)

**MOTION to POSTPONE item 4.C.21. to January 8, 2002, at 2:00 p.m. time certain.  
Motion by Commissioner Marcus.**

**MOTION FAILED FOR LACK OF A SECOND.**

Principal Planner David Flinchum summarized the proposal as a gas-operated 3,000-megawatt electrical power facility on the western 220 acres south of the

## REGULAR AGENDA - CONTINUED

### 4.C.21. - CONTINUED

Mr. Flinchum said a letter had been received from South Florida Water Management District supporting the petitioner's request. It was consistent with their Comprehensive Everglades Restoration Plan, he said.

Mr. Flinchum said that in response to a request by the petitioner, staff would revise condition T.1 to state that the petitioner would agree to create water storage to replace water storage used by the power plant within eight years of use. This would be done by dredging existing mined areas or by other alternatives acceptable to the county. Further, a new condition T.2 would be added, stating that the petitioner would not negatively affect water quality or temperature so as to prohibit discharge of water from the mined area to the surrounding canal system as determined by agencies with jurisdiction over the subject area. He said that Water Utilities Director Gary D. Derlan had agreed to the two conditions yesterday.

At time of publication, staff had received four letters opposed to the request. Mr. Flinchum said they were primarily from residents to the east and expressed concern about tower height, lighting, and noise from the diesel pumps. The petitioner agreed to modify all pumps to electrical pumps only.

Zoning Director Whiteford informed the board he was in recent receipt of a letter from Palm Beach Development Company (PBDC), an affiliate of Enron Corporation, in which it was stated that the company was a sublessee of approximately 40 acres of the subject property. Assistant County Attorney Banks advised that action be stayed on the 40 acres in order to be consistent with the Bankruptcy Code (PBDC being in bankruptcy).

Mr. Banks stated that building a traditional power plant requires approval by Florida governor and cabinet sitting as the Electrical Power Plant Siting Board. No such approval would be required for building below the thresholds of the Florida Electrical Power Plant Siting Act, he said. In this instance, the phased project in total would require the siting board's approval.

Gary M. Brandenburg, agent for Palm Beach Aggregates, said that a stay on the 40 acres would eliminate three stacks, three generation units, and approximately 850 megawatts of power that had been anticipated by Enron. He said that Palm Beach Aggregates was proceeding with this petition with Enron's permission and offered a letter for the record to that effect.

**MOTION to receive and file the letter. Motion by Commissioner McCarty, seconded by Commissioner Greene, and carried 4-0. Commissioners Aaronson, Masilotti, and Newell absent.**

Mr. Banks confirmed Commissioner Marcus's understanding that the Bankruptcy

## REGULAR AGENDA - CONTINUED

### 4.C.21. - CONTINUED

- ? Addition of "as may be required by the ERM agreement" to condition J.2, i.e., "All littoral shelves as may be required by the ERM agreement...."

#### PUBLIC COMMENT:

Concerns expressed by Howard Baugh, member of the Deer Run Homeowners Association (HOA) Board of Directors; Thomas C. Byrne; Elizabeth ("Liz") Johnson; Toni Koy; and Robert Stevens, official of Deer Run HOA, included air and water pollution, noise, height of stacks, injury to residences from construction blasting.

Ms. Johnson submitted for the record documentation that Palm Beach County is ranked among the top 10 percent of the most air - and water-polluted counties in the country, that county residents face a cancer risk more than 100 times the goal set by the Clean Air Act, that the percentage of county surface waters with reported problems is 100 percent, and that the water bodies affected adversely is 95 percent.

**MOTION to receive and file the documentation. Motion by Commissioner McCarty, seconded by Commissioner Greene, and carried 4-0. Commissioners Aaronson, Masilotti, and Newell absent.**

Alfred J. Malefatto, attorney for Palm Beach Development Company, made the following points of clarification for the record:

- ? It was inappropriate for any action to be taken on the petition today because PBDC and its affiliate, Enron North America, were in bankruptcy, Chapter 11 proceeding in the State of New York. Any action taken by the BCC on the petition, including or not including the 40 acres, would affect the value of his client's leasehold interest and the bankruptcy estate. Therefore, all action should be postponed until further clarification through the bankruptcy court. At no time did PBDC ever consent to this petition going forward.
- ? Originally, PBDC was prepared to submit a petition for a 540-megawatt facility, including the 40 acres. It was only after PBDC learned that a full petition was filed by Palm Beach Aggregates (PBA) with Mirant Company (a subsidiary of Southern Company) that PBDC began its objections.
- ? As for the merits of the PBA petition, the requested 3,000-megawatt facility was much larger than what could be accommodated by the existing infrastructure. The power lines were not appropriate for such a facility.

Mr. Malefatto told Commissioner Roberts that a 540-megawatt gas turbine power plant was exempt from the Florida Electrical Power Plant Siting Act. As for the

## REGULAR AGENDA - CONTINUED

### 4.C.21. - CONTINUED

Assistant County Attorney Banks advised that a condition be added prohibiting the construction of a gas turbine plant. Commissioner Roberts recommended that the proposed condition be revised to prohibit the construction of any kind of plant that did not require review by the siting board.

In response to a recommendation by Code Enforcement Director Terry Verner, Principal Planner Flinchum revised condition H.3 by replacing "Noise associated with excavation, loading and hauling activity from 7:00 p.m. to 10:00 p.m. Monday to Friday and 7:00 a.m. to 9:00 a.m. Saturday shall not exceed 45 dBA as measured...." with "All uses on this property shall not exceed 45 dBA as measured...." Mr. Kilday agreed to the revision.

Mr. Banks again advised the board that, based on the bankruptcy proceeding, the 40 acres be stayed, that is, no action should be taken on the parcel. Further, that inasmuch as Enron had expressed no property interest in the remaining 160 acres that are subject to the petition, those acres were subject to the automatic stay in the bankruptcy court.

Mr. Banks read the following condition, which he had prepared:

This Class A conditional use approval is only for a power generating facility requiring approval of the governor and cabinet sitting as the Power Plant Siting Board. Construction of any power generating facility not requiring approval of the siting board shall require approval by the Board of County Commissioners as an additional Class A conditional use.

Mr. Banks then read an alternative condition prepared by Mr. Brandenburg:

The project as defined by this petition is a combined cycle power plant that is required to be reviewed under the Power Plant Siting Act. If the applicant modifies the project in a manner that would allow the project to obtain environmental permits outside the siting act, the applicant agrees to submit documents to the county demonstrating compliance with county standards identified in the Unified Land Development Code.

Following discussion on the two conditions, the board agreed to the following as revised and read by Mr. Banks and numbered condition A.6 by Mr. Whiteford:

This Class A conditional use approval is only for a power generating facility requiring approval of the governor and cabinet sitting as the Power Plant Siting Board. Construction of any power generating facility not requiring approval of the siting board shall require a modification of this condition.

Engineering Assistant Choban said that staff wished to separate condition E.9 into three parts and that part a. would require commencement of an additional lane, funded by the property owner, at the intersection of Southern Boulevard

**REGULAR AGENDA - CONTINUED**

**4.C.21. - CONTINUED**

**MOTION that this request meets Comprehensive Plan and Unified Land Development Code criteria to permit this non-residential use in a residential area. Motion by Commissioner McCarty, seconded by Commissioner Greene, and carried 4-0. Commissioners Aaronson, Masilotti, and Newell absent.**

**MOTION to adopt a resolution approving the request for a development order amendment to add an access point, modify conditions of approval as amended, and add an electrical power facility as a requested use. Included in this motion is the stay action on the 40 acres as discussed. Motion by Commissioner McCarty and seconded by Commissioner Greene.**

Code Enforcement Director Verner clarified that the residents may at times see the towers. There was no expectation that they would never see them.

Environmental Specialist Robert Kraus added that Environmental Resources Management staff would be meeting with the petitioner on the following Tuesday to work out corridor issues and planting issues and that staff would be looking for a planting plan that provided trees in depth rather than in a line. Commissioners Marcus and Roberts agreed.

**UPON CALL FOR A VOTE, the motion carried 4-0. Commissioners Aaronson, Masilotti, and Newell absent.**

**MOTION to adopt a resolution approving a Class A conditional use to allow an electrical power facility based upon a determination by the Board of County Commissioners that the request meets Comprehensive Plan and Unified Land Development Code Plan criteria to permit this non-residential use in a residential area. Included in this motion is the stay action on the 40 acres as discussed. Motion by Commissioner McCarty, seconded by Commissioner Greene, and carried 4-0. Commissioners Aaronson, Masilotti, and Newell absent.**

**5. COMMISSIONER COMMENTS - None**

**6. DIRECTOR COMMENTS**

**6.A. ZONING DIRECTOR**

**6.A.22.**

MEMORANDUM REGARDING JANUARY 24, 2002, ZONING HEARING CHANGE TO JANUARY 31, 2002. DISCUSSED 1-3-2002

**7. ADJOURNMENT**

**The chair declared the meeting adjourned at 11:49 a.m.**

ATTESTED:

APPROVED:

Clerk

Chair