

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 February 27, 2003, at 9:45 a.m., in the Palm Beach County Governmental Center, West Palm Beach, Florida.

1.A. ROLL CALL

MEMBERS AND OFFICERS PRESENT:

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

1.B.1. INVOCATION - Commissioner McCarty

1.B.2. PLEDGE OF ALLEGIANCE

1.C. PROOF OF PUBLICATION APPROVED 2-27-2003

MOTION to receive and file proofs of publication 6914494, 6914529, and 6981424. Motion by Commissioner Aaronson, seconded by Commissioner Newell, and carried 4-0. Commissioners Greene, Koons, and Masilotti absent.

(CLERK'S NOTE: The following proofs of publication were approved for receipt and file in earlier meetings: 6512124 [9-26-2002]; 6657076, 6694769, and 6715417 [12-9-2002]; 6732497, 6780098, and 6832607 [1-9-2003]; and 6829626 and 6829649 [1-23-2003]. These public hearings were continued to today's meeting.)

1.D. SWEARING-IN BY ASSISTANT COUNTY ATTORNEY

1.E. ADOPTION OF AGENDA

MOTION to adopt the agenda. Motion by Commissioner Aaronson, seconded by Commissioner McCarty, and carried 4-0. Commissioners Greene, Koons, and Masilotti absent.

1.E.1. AMENDMENTS TO THE AGENDA

<u>Page</u>	<u>Item</u>	<u>Petition/Change</u>
4	3.B.9.	Petition DOA97-85(A) - Gateway Gardens PUD: Amend.
4	3.B.10.	Petition Z2002-053 - Villa Palma Professional Park: Amend.
4	3.C.11.	Petition DOA98-73(1)A - Shoppes of New Albany: Amend.

POSTPONEMENTS - CONTINUED

2.A.2.

PETITION 2002-049

RESOLUTION FOR PETITION Z2002-049 (DELRAY PLAZA) OF DON DELUCIA AND SUSAN DELUCIA, BY ROBERT A. BENTZ, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM AGRICULTURAL RESERVE TO COMMUNITY COMMERCIAL ON THE 0.91-ACRE PROPERTY LOCATED APPROXIMATELY 300 FEET SOUTH OF AVENIDA DEL RIO ROAD ON THE WEST SIDE OF STATE ROAD 7 (U.S. 441). (P.O.P. 6914494 AND 6914529) POSTPONED TO MARCH 27, 2003 -- 2-27-2003

No backup provided.

2.A.3.

PETITION 81-224

RESOLUTION FOR PETITION Z81-224(A) (VALENCIA CENTER) OF RPG OF S. FLORIDA, BY ROBERT A. BENTZ, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM SPECIALIZED COMMERCIAL TO COMMUNITY COMMERCIAL ON THE 0.78-ACRE PROPERTY LOCATED APPROXIMATELY 600 FEET SOUTH OF AVENIDA DEL RIO ROAD ON THE WEST SIDE OF STATE ROAD 7 (U.S. 441). (P.O.P. 6914494 AND 6914529) POSTPONED TO MARCH 27, 2003 -- 2-27-2003

No backup provided.

2.A.4.

PETITION 2001-017

RESOLUTION FOR PETITION EAC2001-017(A) (10TH & BOUTWELL BP) OF BP PRODUCTS NORTH AMERICA INC., BY TIMOTHY BAUER, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT/EXPEDITED APPLICATION CONSIDERATION TO MODIFY/DELETE A CONDITION OF APPROVAL FOR THE 1.0-ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF 10TH AVENUE NORTH AND BOUTWELL ROAD. (P.O.P. 6715417 [12-9-2002]) POSTPONED TO MARCH 27, 2003 -- 2-27-2003

2.A.5.

PETITION 95-118

RESOLUTION FOR PETITION PDD95-118(B) (LANTANA ROAD PUD) OF AMKBJ PARTNERS LTD., BY JOE LELONEK, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT TO A PLANNED DEVELOPMENT DISTRICT FROM AGRICULTURAL RESIDENTIAL TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD) WITH AN EXISTING COMMERCIAL COMMUNICATION TOWER IN THE PUBLIC CIVIC TRACT AS A REQUESTED USE, AND FOR A RESOLUTION FOR PETITION TDR95-118(B) ALLOWING A TRANSFER OF DEVELOPMENT RIGHTS FOR THREE UNITS AND DESIGNATING THIS PETITION AS THE RECEIVING AREA. THE 62-05-ACRE PROPERTY IS LOCATED APPROXIMATELY 750 FEET WEST OF LYONS ROAD ON THE SOUTH SIDE OF LANTANA ROAD. (P.O.P. 6914494 AND 6914529) POSTPONED TO MARCH 27, 2003 -- 2-27-2003

POSTPONEMENTS - CONTINUED

3.E.15.

PETITION 89-27

STATUS REPORT SR 1989-27A FOR RESOLUTION R-98-1513 OF PETITION 89-27(A) (PLANET KIDS IV) OF FELIX FUNDORA, PETITIONER (PROPERTY OWNER: LIMESTONE PRIVATE SCHOOL, INC.), TO APPROVE A TIME EXTENSION UNTIL JANUARY 2, 2005, FOR R-98-1513 AND TO REVOKE CONCURRENCY RESERVATION 98-9000683-C. THE 0.87-ACRE PROPERTY IS LOCATED APPROXIMATELY 147 FEET NORTH OF SOUTHERN BOULEVARD ON THE EAST SIDE OF FIRST STREET AND IS ZONED SINGLE-FAMILY RESIDENTIAL WITH A CLASS A CONDITIONAL USE TO ALLOW A GENERAL DAYCARE. POSTPONED TO APRIL 24, 2003 -- 2-27-2003

Zoning Director William C. Whiteford informed the board of a 60-day postponement requested by Kevin McGinley, agent, on a comment card.

4.C.28.

PETITION 2001-057

RESOLUTION FOR PETITION DOA2001-057(A) (ST. JOSEPH'S EPISCOPAL SCHOOL) OF THE WILLIAM CHINNICK CHARITABLE FOUNDATION INC., BY ROBERT A. BENTZ, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT TO MODIFY/DELETE CONDITIONS OF APPROVAL AND TO ADD STUDENTS. THE 54.95-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.5 MILE WEST OF THE FLORIDA TURNPIKE ON THE NORTH SIDE OF BOYNTON BEACH BOULEVARD. (P.O.P. 6914494 AND 6914529) POSTPONED TO MARCH 27, 2003 -- 2-27-2003

Zoning Director Whiteford directed the board's attention to this postponement request on the amendments to the agenda sheet.

4.C.30.

PETITION 88-19

RESOLUTION FOR PETITION Z88-19(A) (BENOIST FARMS ROAD PROPERTY) OF SEYMOUR APPLEBAUM AND SUSAN APPLEBAUM, BY ANNA COTTRELL, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM AGRICULTURAL RESIDENTIAL TO LIGHT INDUSTRIAL, AND FOR A RESOLUTION FOR PETITION DOA88-19(A) FOR A DEVELOPMENT ORDER AMENDMENT TO RECONFIGURE THE SITE PLAN FOR THE 10.0-ACRE PROPERTY LOCATED APPROXIMATELY 1,000 FEET SOUTH OF BELVEDERE ROAD ON THE WEST SIDE OF BENOIST FARMS ROAD. (P.O.P. 6914494 AND 6914529) POSTPONED TO MARCH 27, 2003 -- 2-27-2003

Zoning Director Whiteford noted that this postponement request was included on the amendments to the agenda sheet.

PUBLIC COMMENT: None

MOTION to POSTPONE items 2.A.1., 2.A.2., 2.A.3., 2.A.4., 2.A.5., 4.C.28., and 4.C.30. to March 27, 2003, and to POSTPONE item 3.E.15. to April 24, 2003. Motion by Commissioner Aaronson, seconded by Commissioner Newell, and carried 4-0. Commissioners Greene, Koons, and Masilotti absent.

2.B. WITHDRAWALS

2.B.6. PETITION 85-84

RESOLUTION FOR PETITION Z85-84(E) (BEREAN BAPTIST CHURCH) OF BEREAN BAPTIST CHURCH, BY JOHN ABNEY, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM SINGLE-FAMILY RESIDENTIAL TO INSTITUTIONAL AND PUBLIC FACILITIES, AND FOR A RESOLUTION FOR PETITION DOA85-84(E) FOR A DEVELOPMENT ORDER AMENDMENT TO RECONFIGURE THE SITE PLAN AND RESTART THE COMMENCEMENT CLOCK. THE 16.2-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.37 MILE WEST OF BENOIST FARMS ROAD ON THE SOUTH SIDE OF OKEECHOBEE BOULEVARD. (P.O.P. 6829626 AND 6829649 [1-23-2003]) WITHDRAWN; NO MOTION REQUIRED -- 2-27-2003

PUBLIC COMMENT: None

3.E.14. PETITION 77-129

STATUS REPORT SR 1977-129A FOR RESOLUTION R-2000-0003 OF PETITION 77-129(A) (LAKE WORTH ALBERTSON'S) TO APPROVE A TIME EXTENSION UNTIL JULY 10, 2003, FOR R-2009-0003. THE 4.73-ACRE PROPERTY IS LOCATED AT THE NORTHEAST CORNER OF LAKE WORTH ROAD AND MILITARY TRAIL AND IS ZONED GENERAL COMMERCIAL WITH A SPECIAL EXCEPTION FOR A LARGE-SCALE SHOPPING CENTER. WITHDRAWN; NO MOTION REQUIRED -- 2-27-2003

Zoning Director Whiteford stated that item 3.E.14. had been added to the amendments to the agenda sheet as a withdrawal. No motion was needed on either withdrawn item, he said.

3. CONSENT AGENDA

PUBLIC COMMENT: None

MOTION to approve the consent agenda as amended and adopt resolutions affirming the applicable actions. Motion by Commissioner Aaronson, seconded by Commissioner McCarty, and carried 4-0. Commissioners Greene, Koons, and Masilotti absent.

(CLERK'S NOTE: Consent agenda items 3.B.7. and 3.E.20. were discussed and voted on separately.)

3.A. REQUESTS TO PULL ITEMS FROM CONSENT AGENDA - None

3.B. PREVIOUSLY POSTPONED ZONING PETITIONS

3.B.7. PETITION 2002-011

RESOLUTION FOR PETITION PDD2002-011 (JOHNSON PROPERTY MUPD) OF LAWRENCE GIDEON JOHNSON, BY GEORGE G. GENTILE, AGENT, APPROVING AN OFFICIAL ZONING MAP AMENDMENT TO A PLANNED DEVELOPMENT DISTRICT FROM AGRICULTURAL RESIDENTIAL TO MULTIPLE USE PLANNED DEVELOPMENT FOR THE 54.6-ACRE PROPERTY LOCATED AT THE SOUTHEAST CORNER OF BELVEDERE ROAD AND THE FLORIDA TURNPIKE. (P.O.P 6512124 [9-26-2002]) POSTPONED TO MARCH 27, 2003 -- 2-27-2003

CONSENT AGENDA - CONTINUED

3.B.7. - CONTINUED

George G. Gentile, agent, requested a 30-day postponement in order to finalize closing.

PUBLIC COMMENT: None

MOTION to POSTPONE the item to March 27, 2003. Motion by Commissioner Aaronson, seconded by Commissioner Newell, and carried 4-0. Commissioners Greene, Koons, and Masilotti absent.

3.B.8. RESOLUTION R-2003-0320

RESOLUTION FOR PETITION Z/CB2002-044 (ROYAL CENTER) OF BIBI ENTERPRISES INC., BY KEVIN MCGINLEY, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM MULTI-FAMILY RESIDENTIAL (MEDIUM DENSITY) AND GENERAL COMMERCIAL ENTIRELY TO GENERAL COMMERCIAL AND FOR A CLASS B CONDITIONAL USE TO ALLOW A CAR WASH ON THE 2.07-ACRE PROPERTY LOCATED APPROXIMATELY 700 FEET NORTH OF 10TH AVENUE NORTH ON THE EAST SIDE OF MILITARY TRAIL. THE CONDITIONAL USE WAS APPROVED BY THE ZONING COMMISSION ON FEBRUARY 6, 2003, SUBJECT TO CONDITIONS CONTAINED IN ZONING COMMISSION RESOLUTION ZR-2003-002 AND CONTINGENT UPON BCC APPROVAL OF THE CURRENT REZONING REQUEST. (P.O.P. 6829626 AND 6829649 [1-23-2003]) ADOPTED 2-27-2003

**3.B.9. RESOLUTION R-2003-0321
(AMENDS R-98-5 [PETITION 97-85] AND R-98-573 [PETITION 85-149])**

RESOLUTION FOR PETITION DOA97-85(A) (GATEWAY GARDENS PUD [PLANNED UNIT DEVELOPMENT]) OF MEADOWLAND DEVELOPMENT CORPORATION, BY HELEN LAVALLEY, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT TO ADD LAND AREA, ADD UNITS, AND MODIFY/DELETE CONDITIONS OF APPROVAL FOR THE 39.30-ACRE PROPERTY LOCATED APPROXIMATELY 3,400 FEET NORTH OF GATEWAY BOULEVARD, BOUNDED ON THE EAST BY MILITARY TRAIL AND ON THE WEST BY HAVERHILL ROAD. (P.O.P. 6732497, 6780098, AND 6832607 [1-9-2003]) ADOPTED WITH CONDITIONS AS AMENDED 2-27-2003

Condition E.16.b. was revised on the amendments to the agenda sheet.

3.B.10. RESOLUTION R-2003-0322

RESOLUTION FOR PETITION Z2002-053 (VILLA PALMA PROFESSIONAL PARK) OF GIARDINA DI VILLA PALMA, BY GEORGE G. GENTILE, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM MULTI-FAMILY RESIDENTIAL (MEDIUM DENSITY) TO GENERAL COMMERCIAL ON THE 2.31-ACRE PROPERTY LOCATED APPROXIMATELY 250 FEET WEST OF MILITARY TRAIL ON THE NORTH SIDE OF NORTHLAKE BOULEVARD. (P.O.P. 6829626 AND 6829649 [1-23-2003]) ADOPTED WITH CONDITIONS AS AMENDED 2-27-2003

Conditions E.5.f. and L.2. were modified on the amendments to the agenda sheet.

CONSENT AGENDA - CONTINUED

3.C. ZONING PETITIONS

**3.C.11. RESOLUTION R-2003-0323
(AMENDS R-99-525)**

RESOLUTION FOR PETITION DOA98-73(1)A (SHOPPES OF NEW ALBANY) OF HERBERT F. KAHLERT AND KARL A. KAHLERT, BY KIERAN J. KILDAY, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT TO RECONFIGURE THE SITE PLAN AND ADD SQUARE FOOTAGE FOR THE 5.48-ACRE PROPERTY LOCATED AT THE SOUTHEAST CORNER OF BOYNTON BEACH BOULEVARD AND THE FLORIDA TURNPIKE. (P.O.P. 6914494 AND 6914529) ADOPTED WITH CONDITIONS AS AMENDED 2-27-2003

Condition E.4. was deleted on the amendments to the agenda sheet.

**3.C.12. RESOLUTION R-2003-0324
(AMENDS R-2002-1472)**

RESOLUTION FOR PETITION DOA/EAC89-52(E) (PALM BEACH AGGREGATES) OF PALM BEACH AGGREGATES, BY KIERAN J. KILDAY, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT/EXPEDITED APPLICATION CONSIDERATION TO MODIFY CONDITION E.10. THE 4,047.96-ACRE PROPERTY IS LOCATED APPROXIMATELY 3 MILES WEST OF SEMINOLE PRATT WHITNEY ROAD ON THE NORTH SIDE OF SOUTHERN BOULEVARD AND IS ZONED AGRICULTURAL PRODUCTION. (P.O.P. 6981424) ADOPTED WITH CONDITIONS AS AMENDED 2-27-2003

Conditions E.6.b. and E.6.c. were amended and conditions E.8.b., E.8.c., and E.10. were deleted on the amendments to the agenda sheet.

3.D. PREVIOUSLY POSTPONED STATUS REPORTS

3.D.13. PETITION 93-39

STATUS REPORT SR 1993-039A.2 FOR RESOLUTIONS R-97-2072 AND R-97-2073 (CAMERON PARK) OF SECURITY CAPITAL ATLANTIC, INC., PETITIONER (PROPERTY OWNER: P. A. PETERSON, JR.; E. D. PETERSON; AND SECURITY CAPITAL ATLANTIC, INC.), TO APPROVE A TIME EXTENSION UNTIL JUNE 10, 2003, FOR R-97-2072 AND R-97-2073. THE 38.58-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.54 MILE WEST OF MILITARY TRAIL ON THE SOUTH SIDE OF ATLANTIC AVENUE AND IS ZONED PLANNED UNIT DEVELOPMENT. APPROVED 2-27-2003

3.E. STATUS REPORTS

3.E.14. See page 5.

3.E.15. See page 4.

CONSENT AGENDA - CONTINUED

3.E.16.

PETITION 97-85

STATUS REPORT SR 1997-085.2 FOR RESOLUTIONS R-98-5 AND R-98-6 (GATEWAY GARDENS PUD) OF MEADOWLAND DEVELOPMENT CORPORATION, PETITIONER-PROPERTY OWNER, TO APPROVE A TIME EXTENSION UNTIL JULY 10, 2003, FOR R-98-5 AND R-98-6. THE 2.78-ACRE PROPERTY IS LOCATED APPROXIMATELY 300 FEET NORTH OF LECHALET BOULEVARD BETWEEN HAVERHILL ROAD ON THE EAST AND MILITARY TRAIL ON THE WEST AND IS ZONED PLANNED UNIT DEVELOPMENT (PUD) WITH A CHURCH OR PLACE OF WORSHIP AS A REQUESTED USE AND A TRANSFER OF DEVELOPMENT RIGHTS FOR 47 UNITS. APPROVED 2-27-2003

3.E.17.

**RESOLUTION R-2003-0325
(AMENDS R-2000-0006)**

RESOLUTION FOR STATUS REPORT SR 1999-022 FOR RESOLUTION R-2000-0006 OF PETITION 99-22 (HUMPHRIES DENTAL) OF JOHN W. HUMPHRIES, PETITIONER-PROPERTY OWNER, TO ADOPT A RESOLUTION TO AMEND CONDITIONS OF APPROVAL (ARCHITECTURAL) AND TO APPROVE A TIME EXTENSION UNTIL JULY 10, 2003, TO COMMENCE DEVELOPMENT. THE 0.35-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.5 MILE NORTH OF NORTHLAKE BOULEVARD WITH A CLASS A CONDITIONAL USE FOR A MEDICAL/DENTAL CLINIC. ADOPTED WITH CONDITIONS 2-27-2003

3.E.18.

PETITION 79-134

STATUS REPORT FOR RESOLUTION R-99-1145 OF PETITION 79-134(A) (LEARNING EXPERIENCE) OF FLORIDA CHILDCARE PROPERTIES, I.L.C., PETITIONER-PROPERTY OWNER, TO APPROVE A TIME EXTENSION UNTIL JULY 2, 2003, TO COMPLY WITH CONDITIONS A.2., A.3., AND E.3. OF R-99-1145. THE 1.00-ACRE PROPERTY IS LOCATED ON THE SOUTH SIDE OF SANDALFOOT BOULEVARD 0.25 MILE WEST OF STATE ROAD 7 (U.S. 441) AND IS ZONED MULTI-FAMILY RESIDENTIAL (MEDIUM DENSITY) WITH A SPECIAL EXCEPTION TO ALLOW A DAYCARE CENTER. APPROVED 2-27-2003

3.E.19.

PETITION 84-5

STATUS REPORT CR 1984-005B/E8.4 FOR RESOLUTION R-2000-0590 OF PETITION 84-5(B) (UNITED CEREBRAL PALSY DAYCARE) OF UNITED CEREBRAL PALSY ASSOCIATION, PETITIONER-PROPERTY OWNER, TO APPROVE A TIME EXTENSION UNTIL JULY 2, 2003, TO COMPLY WITH CONDITION E.8 OF R-2000-0590. THE 3.28-ACRE PROPERTY IS LOCATED AT THE NORTHEAST CORNER OF COCONUT ROAD AND 2ND AVENUE NORTH AND IS ZONED SINGLE-FAMILY RESIDENTIAL WITH A CLASS A CONDITIONAL USE TO ALLOW A GENERAL DAYCARE. APPROVED 2-27-2003

CONSENT AGENDA - CONTINUED

3.E.20.

PETITION 99-68

STATUS REPORT CR 1999-068 FOR RESOLUTION R-2000-0582 OF PETITION 99-68 (MIZNER FALLS, AKA EXCELSIOR PARC) OF VELMA BUCKNER AND DONALD BUCKNER, J&N PROPERTIES, INC., AND MARTIN PROPERTIES OF THE PALM BEACHES, PETITIONER (PROPERTY OWNER: MIZNER FALLS LLP), TO PROHIBIT THE ISSUANCE OF ANY ADDITIONAL CERTIFICATES OF OCCUPANCY UNTIL THE PROPERTY OWNER COMPLIES WITH CONDITION E.8 OF R-2000-0582 AND TO DIRECT THE CODE ENFORCEMENT DIVISION TO CITE THE PROPERTY OWNER FOR FAILURE TO COMPLY WITH CONDITION E.8. THE 58.76-ACRE PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF BOYNTON BEACH BOULEVARD AND HAGEN RANCH ROAD AND IS ZONED PLANNED UNIT DEVELOPMENT. APPROVED A TIME EXTENSION TO APRIL 5, 2003 -- 2-27-2003

Jennifer Morton, agent, requested a time extension to April 5, 2003. The neighbors supported the extension, she said, as did Principal Planner Monroe.

Principal Planner Linda Monroe supported the request, explaining that a time extension would allow the property owner to obtain additional certificates of occupancy whereas a postponement would not. The property owner was currently planting the lantana beds, she said.

PUBLIC COMMENT: None

MOTION to approve a time extension to April 5, 2003. Motion by Commissioner Aaronson, seconded by Commissioner Newell, and carried 4-0. Commissioners Greene, Koons, and Masilotti absent.

3.E.21.

PETITION 2000-005

STATUS REPORT CR 2000-005/E3 FOR RESOLUTION R-2000-0720 OF PETITION 2000-005 (CONGRESS BUSINESS PARK) OF CONGRESS VENTURE TWO, INC., PETITIONER-PROPERTY OWNER, TO APPROVE A TIME EXTENSION UNTIL JUNE 10, 2003, TO COMPLY WITH CONDITION E.3 OF R-2000-0720. THE 2.28-ACRE PROPERTY IS LOCATED ON THE EAST SIDE OF CONGRESS AVENUE 0.5 MILE NORTH OF BELVEDERE ROAD AND IS ZONED GENERAL COMMERCIAL WITH A CLASS A CONDITIONAL USE TO ALLOW AN OFFICE-WAREHOUSE. APPROVED 2-27-2003

3.F. TDR CONTRACT, ESCROW AGREEMENT, AND DEED

3.F.22.

a.

DOCUMENT R-2003-0326

CONTRACT WITH TLH-CHURCH FOR THE SALE AND PURCHASE OF TWO TRANSFER OF DEVELOPMENT RIGHTS (TDR) UNITS FROM THE COUNTY TDR BANK AT A PURCHASE PRICE OF \$10,399 PER UNIT FOR A TOTAL PURCHASE PRICE OF \$20,798. THE PROPERTY (CELEBRATION LAKE PLANNED UNIT DEVELOPMENT) IS THE EASTERLY ONE-HALF OF TRACT 9 AND THE WESTERLY ONE-HALF OF TRACT 10, BLOCK 1, PALM BEACH FARMS COMPANY, PLAT 9, LESS THE NORTH 70 FEET THEREOF. (SEE R-2003-0100) APPROVED 2-27-2003

CONSENT AGENDA - CONTINUED

3.F.22. - CONTINUED

b.

DOCUMENT R-2003-0327

ESCROW AGREEMENT WITH TLH-CHURCH AND WITH COAST TO COAST TITLE (ESCROW AGENT) FOR THE SALE AND PURCHASE OF TWO TRANSFER OF DEVELOPMENT RIGHTS (TDR) UNITS FROM THE COUNTY TDR BANK AT A PURCHASE PRICE OF \$10,399 PER UNIT FOR A TOTAL PURCHASE PRICE OF \$20,798. THE PROPERTY (CELEBRATION LAKE PLANNED UNIT DEVELOPMENT) IS THE EASTERLY ONE-HALF OF TRACT 9 AND THE WESTERLY ONE-HALF OF TRACT 10, BLOCK 1, PALM BEACH FARMS COMPANY, PLAT 9, LESS THE NORTH 70 FEET THEREOF. (SEE R-2003-0100) APPROVED 2-27-2003

3.F.23.

DOCUMENT R-2003-0328

DEED CONVEYING TWO TRANSFER OF DEVELOPMENT RIGHTS UNITS TO TLH-CHURCH AT A PURCHASE PRICE OF \$10,399 PER UNIT FOR A TOTAL PURCHASE PRICE OF \$20,798 AND DESIGNATING THE CELEBRATION LAKE PLANNED UNIT DEVELOPMENT AS THE TDR RECEIVING AREA FOR THOSE UNITS. THE PROPERTY IS THE EASTERLY ONE-HALF OF TRACT 9 AND THE WESTERLY ONE-HALF OF TRACT 10, BLOCK 1, PALM BEACH FARMS COMPANY, PLAT 9, LESS THE NORTH 70 FEET THEREOF. (SEE R-2003-0100) APPROVED 2-27-2003

3.G. RECEIVE AND FILE ZONING COMMISSION RESOLUTIONS

3.G.24.

PETITION 2002-044

RECEIVE AND FILE ZONING COMMISSION RESOLUTION ZR-2003-002 FOR PETITION CB2002-044 (ROYAL CENTER) OF BIBI ENTERPRISES INC., BY KEVIN MCGINLEY, AGENT, FOR A CLASS B CONDITIONAL USE TO ALLOW A CAR WASH IN THE GENERAL COMMERCIAL ZONING DISTRICT ON A 90,279-SQUARE-FOOT PARCEL OF LAND--THE WEST 448.58 FEET OF THE NORTH 479.33 FEET OF LOTS 1, 2, 3, AND 4, MODEL LAND COMPANY SUBDIVISION OF THE NORTH ONE-HALF OF SECTION 24, TOWNSHIP 44 SOUTH, RANGE 42 EAST, LESS THE WEST 25.0 FEET AND THE NORTH 264.67 FEET. APPROVED 2-27-2003

3.G.25.

PETITION 92-39

RECEIVE AND FILE ZONING COMMISSION RESOLUTION ZR 2003-003 FOR PETITION CB92-39(A) (GLADSTONE COMMERCIAL/KARCHER CAR WASH), BY MANUEL S. ANDRADE, AGENT, FOR A CLASS B CONDITIONAL USE TO ALLOW A CAR WASH AND AUTO DETAILING FACILITY IN THE GENERAL COMMERCIAL DISTRICT ON PARCELS D AND E OF THE GLADSTONE COMMERCIAL CENTER. APPROVED 2-27-2003

3.H. CORRECTIVE RESOLUTIONS

3.H.26.

**RESOLUTION R-2003-0329
(AMENDS R-2002-1957)**

RESOLUTION FOR PETITION DOA97-71(A) (HAGEN & BOYNTON OFFICE) TO CORRECT ENGINEERING CONDITION E.2 OF RESOLUTION R-2002-1957). ADOPTED WITH CONDITION 2-27-2003

4. REGULAR AGENDA

4.A. ITEMS PULLED FROM CONSENT AGENDA - None

4.B. PREVIOUSLY POSTPONED ZONING PETITIONS

4.B.27. PETITION 2002-020

RESOLUTION FOR PETITION PDD2002-020 (BERNARD HAAS PUD) OF GEORGE HAAS AND DOROTHY HAAS, BY ROBERT A. BENTZ, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT TO A PLANNED DEVELOPMENT DISTRICT FROM AGRICULTURAL RESIDENTIAL TO RESIDENTIAL PLANNED UNIT DEVELOPMENT FOR THE 47.96-ACRE PROPERTY LOCATED APPROXIMATELY 0.25 MILE SOUTH OF LAKE WORTH ROAD ON THE EAST SIDE OF LYONS ROAD. (P.O.P. 6657076 AND 6694769 [12-9-2002]) POSTPONED TO MARCH 27, 2003, WITH DIRECTION -- 2-27-2003

Assistant County Attorney Banks announced that a portion of the Haas property had been sold a couple of days previously and that the new owners had not signed the consents. The applicant had consents on entering into the process and had contracts to purchase the property. This issue needed to be resolved before the Board of County Commissioners (BCC) took action. It apparently would have to be resolved in court unless the new owners agreed with prior contracts. Mr. Banks advised the board to postpone the item for either 30 or 60 days to give the applicant an opportunity to resolve the issue.

John Jorgensen, attorney for TLH-BER Corporation, commented that:

- His client was currently under contract with George Haas to purchase a majority of the Haas PUD acreage. At the January 23, 2003, public hearing on this zoning amendment, his client had agreed, at the urging of Commissioner Masilotti, to a 30-day postponement to try to work out differences on compatibility issues with neighbor Florida Polo, Inc., but the effort was unsuccessful.
- He had learned two days previously that one day after last month's meeting, Haas Properties LLC had been formed and had purchased property from George Haas for which TLH-BER was under contract. He had received a copy of the warranty deed yesterday.
- His position was that TLH-BER Corporation was still the contract vendee, had a contractual interest in the property, and, pursuant to Section 5.3 (Official Zoning Map Amendments) of the Unified Land Development Code (ULDC), had a right to proceed with the proposed amendment.
- He had twice written attorney James Brindell as to whether Haas Properties LLC would honor TLH-BER's contracts with George Haas but had received no answer. One of the contracts was scheduled to close this coming Monday, March 3.
- The BCC should make a determination about the following before reaching the decision on whether to postpone: (1) Mr. Brindell had not indicated his client's position on the proposed zoning map amendment. If his client was for it, there was no reason why it could not proceed today; and (2) Mr. Brindell had not indicated whether his client would honor TLH-BER's contracts with George Haas. If they were going to close with TLH-BER on Monday, there was no reason for not going forward today.

REGULAR AGENDA - CONTINUED

4.B.27. - CONTINUED

Commissioner Marcus remarked that the BCC should not be involved in the matter and recommended a 60-day postponement to enable the parties to resolve their differences.

Upon questioning by Commissioner Aaronson, Assistant County Attorney Banks advised that the board could proceed with the duly advertised public hearing. When the board approves a zoning, they rely on agent representations and agent binding of the property owner. Staff seeks valid consents before any property goes through the zoning process and to the Development Review Committee (DRC). The consent is now at issue because staff did not have consent from one of the property owners. If the matter were before the DRC, it would stop right now. Since the applicant had followed all the rules and was now before the BCC, however, it was appropriate to postpone. He informed Commissioner Newell that hearing the matter could presumably have an effect on possible litigation.

James Brindell, attorney for Haas Properties LLC, made the following remarks:

- The current owner is not the entity who signed the consent form. Since there was a willing seller and a willing buyer, there was a new owner of this property. The county's consent form requires signature by the owner. There is no successor in interest provision in the form, as one would not expect there to be. The owner is asked to make representations on the form as to the truthfulness and accuracy of the application and to agree to conditions that may be imposed at the public hearing. His client agreed neither to the accuracy of the application nor to the conditions.
- The closing issue involved only a small portion of the property. The majority of the property would not close for several years.
- A postponement would give the applicant and the new owner time to work out their differences.
- It was hard to determine what kind of impact the public hearing process could have on litigation. The process should not be used by Mr. Jorgensen or himself to try to impact litigation.
- He explained to Commissioner Aaronson that a consent form was signed by the former owner and agent, the purpose of which was to authorize the third party agent stand before the county on behalf of the owner, attend hearings on the owner's behalf, make representations on the owner's behalf, answer questions on the owner's behalf, and agree to conditions on the owner's behalf.

Assistant County Attorney Banks informed Commissioner Aaronson that:

- The county's consent form provided consent from the property owner to designate an agent to participate in the zoning process and to represent him or her at hearings.
- This agent represented this petitioner properly.
- Neither the petitioner nor the county had foreknowledge of the sale of the property.

REGULAR AGENDA - CONTINUED

4.B.27. - CONTINUED

- The county had not seen the contracts to purchase and had no knowledge of any contractual details.

On the issue of withdrawal, Planning, Zoning and Building Executive Director Barbara Alterman explained to Commissioner Aaronson that the owner always has the right to withdraw the petition before it has been approved. Part of the board's dilemma with this petition was the lack of a notice of withdrawal.

Mr. Brindell explained to Commissioner McCarty the petition had not been withdrawn because there had not been enough time for the new owner to evaluate the options and discuss them with the applicant. He said he supposed that was something that could be considered.

Since the petition had not been withdrawn, Commissioner Aaronson said he saw no reason for not proceeding with the item today.

Commissioner McCarty observed that timing of the new owner was not the board's problem.

Mr. Brindell stated that the board's problem was that the property had a new owner who had not consented to this agent to represent the property. He had provided letters to the county notifying them of the new property owner and the lack of consent, he said.

Commissioner Marcus recommended the approval of least a 30-day postponement.

MOTION to POSTPONE the item for 30 days (March 27, 2003). Motion by Commissioner McCarty and seconded by Commissioner Newell.

Commissioner Marcus stated that the board would be looking for some resolution to this issue at the next zoning hearing.

Mr. Jorgensen argued that according to ULDC Section 5.3, a contract purchaser had the right to proceed with an official zoning map amendment. Haas Properties LLC not wanting to use TLH-BER Corporation's client's agent did not affect TLH-BER's ability to go forward under section 5.3. Assistant County Attorney Banks responded that the county required the consent of both the contract purchaser and the underlying owner.

Commissioner Aaronson objected to the repeated occurrence of property owners deciding at the last minute to hold up somebody on a contract by trying to get a little bit more each time.

Commissioner Marcus said the board should follow the same course as it did with Enron when it wanted in and out on a contract. Mr. Banks said the board suspended Enron's portion of the petition and that it was still suspended.

Commissioner Aaronson objected to a piece of land being sold over and over again any time someone else wanted a little bigger piece of the pie. He said he would not support the motion.

REGULAR AGENDA - CONTINUED

4.B.27. - CONTINUED

PUBLIC COMMENT:

Commissioner Marcus explained to Donald Speer that there would be no hearing notification by mail to members of the audience who wished to speak on this matter. The item would be next before the board, she said, on March 27 at 9:30 a.m. in these same chambers.

Thomas J. Baird, attorney for Florida Polo, Inc., supported the postponement.

Brian Tuttle, petitioner, argued on behalf of rejecting the postponement and moving forward on the proposed zoning amendment.

Assistant County Attorney Banks again advised moving forward with the postponement. Commissioner McCarty commented that the board had no other choice than to postpone the item.

The following persons submitted comment cards but did not address the assembly: Paul Asfahl, Ted Brinkmann, Butch Butterworth, Leigh Butterworth, Christine DuFour, Leighann Fischer, Chris Gillard, Robert Lipman, Rita Musto, David Roberts, Jay Romfh, John Schlichting, Nancy Schlichting, Dan Shirey, Garrick Steele, and Barbara G. Uskup.

UPON CALL FOR A VOTE, the motion carried 3-1. Commissioner Aaronson opposed. Commissioners Greene, Koons, and Masilotti absent.

Commissioner Newell asked staff to provide the board with a full status report on this matter as soon as possible rather than wait until when the zoning hearing package normally comes forward.

Commissioner Aaronson asked the legal department to look into whether something could be done to change this objectionable system.

4.C. ZONING PETITIONS

4.C.28. See page 4.

4.C.29. RESOLUTION R-2003-0330

RESOLUTION FOR PETITION PDD2002-052 (AGRADEX PUD) OF AGRADEX INTERNATIONAL INC., BY ROBERT A. BENTZ, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT TO A PLANNED DEVELOPMENT DISTRICT FROM RESIDENTIAL TRANSITIONAL (RT) AND RESIDENTIAL ESTATE (RE) TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD) FOR THE 158.79-ACRE PROPERTY LOCATED AT THE NORTHWEST CORNER OF DILLMAN ROAD AND THE FUTURE EXTENSION OF LYONS ROAD. (P.O.P. 6914494 AND 6914529) ADOPTED WITH CONDITIONS AS AMENDED 2-27-2003

Senior Planner William Cross reported that at time of publication, staff had received 2 letters in support and 13 letters in opposition to the project. Principal letters in opposition indicated concerns, he said, about the extension of Lyons Road, development incompatibility with the rural neighborhood, additional traffic impact on the residential streets, and the connection of 7th Place South to Lyons Road, which is not inside the boundaries of the subject site.

REGULAR AGENDA - CONTINUED

4C.29. - CONTINUED

Robert A. Bentz, agent, agreed to the conditions in his presentation.

PUBLIC COMMENT:

Judy King expressed support for the project and objected to connecting 7th Place South, a two-block residential cul-de-sac, to the future extension of Lyons Road. For the neighbors' security and peace of mind, she requested extending the proposed wall and landscaping along 7th Place South. Land Development Director Kenneth S. Rogers responded that staff thought that 7th Place South and Lyons Road were public roads and that where public roads meet, they should physically intersect to provide full access to public road users. He stated the neighborhood had requested that the board agree in concept to closing 7th Place South and not intersecting it with Lyons Road. If the board did so agree, he said, direction should be given to staff to hold a second public hearing in accordance with the county's road closure policies followed by another process in which the board would give final approval to close the road.

Brian Tuttle supported the project and objected to dead-end streets as placing a traffic burden on other streets. Commissioner McCarty agreed that part of the county's traffic problem was its closure of too many roads.

Bob Jerriel expressed support for the project. He said that a 30-foot right-of-way was going to be increased to 100 feet for the Lyons Road extension and asked that the proposed two-lane construction be sited on the west side of that right-of-way. Land Development Director Rogers responded that the county could accommodate the request but had no recommendation one way or the other.

MOTION to adopt a resolution approving the request for a rezoning from RT and RE to residential PUD, subject to conditions. Motion by Commissioner McCarty and seconded by Commissioner Aaronson.

Agent Bentz confirmed to Commissioner Marcus that this project had needed the CRALLS (constrained roadway at a lower level of service) that had been approved for Lyons Road.

Zoning Director Whiteford asked whether the motion included the closing of 7th Place South. Commissioner McCarty responded that it did not.

CLARIFIED MOTION to include locating the two-lane road extension on the west side of the 100-foot right-of-way. The maker and seconder agreed. Upon call for a vote, the motion carried 3-1. Commissioner Marcus opposed. Commissioners Greene, Koons, and Masilotti absent.

4.C.30. See page 4.

5. DIRECTOR COMMENTS

5.A. ZONING DIRECTOR

5.A.31.

REPORT ON DIRECTION TO STAFF IN DECEMBER 2002 TO INVESTIGATE OPTIONS FOR REGULATING VALET PARKING AT SHOPPING CENTERS. DISCUSSED WITH DIRECTION 2-27-2003

ZONING DIRECTOR COMMENTS - CONTINUED

5.A.31. - CONTINUED

Zoning Director Whiteford said that location was the outstanding issue of valet parking at shopping centers and that staff recommended a distance separation from public entrances as well as a limitation on the number of spaces that can be used for valet parking. He noted that smaller users might have more need of valet parking and might have difficulty meeting the staff-recommended criteria. Mr. Whiteford said that staff would forward their recommendations and preliminary guidelines to the Citizens Task Force (CTF) and later forward the CTF's recommendation to the board as part of the Unified Land Development Code rewrite project.

Commissioner McCarty agreed to the recommendations for application to commercial developments but not to private developments. Commissioner Aaronson agreed, adding that valet parking should be far from public entrances and that prime parking spots should be kept for people who do not want to use valet parking.

Commissioner Marcus stated that staff had been given direction.

5.B. PLANNING DIRECTOR

5.B.32.

INITIATION OF A FUTURE LAND USE ATLAS AMENDMENT FOR CURRENT AMENDMENT ROUND 2003-1 TO REMOVE THE AGRICULTURAL RESERVE PRESERVATION NOTE FROM AN 18.0-ACRE COUNTY-OWNED PARCEL LOCATED APPROXIMATELY 0.5 MILE SOUTH OF THE INTERSECTION OF BOYNTON BEACH BOULEVARD AND LYONS ROAD. APPROVED 2-27-2003

Planning Director Lorenzo Aghemo made the initiation request.

MOTION to approve the request. Motion by Commissioner McCarty, seconded by Commissioner Aaronson, and carried 4-0. Commissioners Greene, Koons, and Masilotti absent.

6. COMMISSIONER COMMENTS - None

7. ADJOURNMENT

The chair declared the meeting adjourned at 10:38 a.m.

ATTESTED:

APPROVED:

Clerk

Chair