

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 March 27, 2003, at 9:35 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 - Absent
Vice-Chair Tony Masilotti
Commissioner Burt Aaronson
Commissioner Addie L. Greene
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 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 County Unified Land Development Code, and 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 March 27, 2003, at 9:30 a.m., in the County Commission Chambers, 6th Floor, 301 North Olive Avenue, West Palm Beach, Florida.

1.D. PROOF OF PUBLICATION APPROVED 3-27-2003

MOTION to receive and file proofs of publication 6981413 and 6981447. Motion by Commissioner Aaronson, seconded by Commissioner Newell, and carried 5-0. Commissioners Koons and Marcus 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]; 6829626 and 6829649 [1-23-2003]; and 6914494 and 6914529 [2-27-2003].)

1.E. SWEARING-IN BY ASSISTANT COUNTY ATTORNEY

1.F. ADOPTION OF AGENDA

MOTION to adopt the agenda. Motion by Commissioner Aaronson, seconded by Commissioner Greene, and carried 5-0. Commissioners Koons and Marcus absent.

1.F.1. AMENDMENTS TO THE AGENDA

<u>Page</u>	<u>Item</u>	<u>Petition/Change</u>
2	2.A.4.	Petition PDD/TDR95-118b - Lantana Road PUD: Pull off postponements. Item will be discussed. Add new condition A.3.
4	3.C.9.	Petition Z/DOA88-019A - Benoist Farms Road Property: Modify condition J.1.c. and condition K.1.c.
6	3.F.14.	Status Report SR 1982-002 - Bishop Property: Withdraw.
7	3.F.17.	Status Report SR 86-114B - Summit Christian School: Amend motion to read as follows: <u>To adopt a resolution to amend conditions of approval (architectural guidelines) in Resolution R-97-148 and approve a time extension until August 10, 2003, for Resolution R-97-148.</u>
8	3.F.23.	Status Report 1998-062.2 - Weitz and Sparling: Amend motion to read as follows: <u>To adopt a resolution to amend voluntary commitments (TPS) in Resolution R-99-99 and approve a time extension until January 28, 2004, for Resolution R-99-99.</u>
11	5.B.30.	Commercial Low Appeal - Gaeta Development Company: Postpone to April 24, 2003. (Petitioner requested 30 days.)

2. POSTPONEMENTS AND WITHDRAWALS - See pages 3-5.

3. CONSENT AGENDA - See pages 5-10.

4. REGULAR AGENDA - See pages 10-16.

5. DIRECTOR COMMENTS - See page 4 (5.B.30.).

6. COMMISSIONER COMMENTS - See page 16.

7. ADJOURNMENT - See page 16.

2. POSTPONEMENTS AND WITHDRAWALS

2.A. POSTPONEMENTS

2.A.1. PETITION 2002-064

RESOLUTION FOR PETITION Z2002-064 (JOHNSON LINEAR PARK) OF G.B. ENTERPRISES OF SOUTHWEST FLORIDA, BY GEORGE G. GENTILE, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM AGRICULTURAL RESIDENTIAL TO PUBLIC OWNERSHIP FOR THE 24.25-ACRE PROPERTY LOCATED APPROXIMATELY 0.5 MILE EAST OF JOG ROAD, BOUNDED ON THE NORTH AND SOUTH BY BELVEDERE ROAD AND SOUTHERN BOULEVARD. (P.O.P. 6981413 AND 6981447) POSTPONED TO APRIL 24, 2003 -- 3-27-2003

2.A.2. 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 6694796 [12-9-2002]) POSTPONED TO APRIL 24, 2003 -- 3-27-2003

2.A.3. 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 APRIL 24, 2003 -- 3-27-2003

2.A.4. See pages 10-13.

2.A.5. PETITION 2002-011

RESOLUTION FOR PETITION PDD2002-011 (JOHNSON PROPERTY MUPD) OF LAWRENCE GIDEON JOHNSON, BY GEORGE G. GENTILE, AGENT, FOR 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 MAY 22, 2003 -- 3-27-2003

POSTPONEMENTS - CONTINUED

4.B.27.

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 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 [2-27-2003]) POSTPONED TO MAY 22, 2003 -- 3-27-2003

Zoning Director William C. Whiteford informed the board that information had been received this morning that the petitioner was requesting a 60-day postponement.

5.B.30.

FORMAL APPEAL BY NEIL J. GAETA, PRESIDENT OF GAETA DEVELOPMENT CO., OF THE PLANNING DIVISION'S INTERPRETATION AND THE LAND USE ADVISORY BOARD/LOCAL PLANNING AGENCY'S (LUAB/LPA) DETERMINATION OF THE COMPREHENSIVE PLAN WITH RESPECT TO A COMMERCIAL LOW FUTURE LAND USE ATLAS DESIGNATION DETERMINATION FOR THE 13.3-ACRE PROPERTY (00-42-43-27-03-001-0221) LOCATED AT THE SOUTHWEST CORNER OF OKEECHOBEE BOULEVARD AND SKEES ROAD, WHICH IS CURRENTLY IN USE AS THE PINE LAKE CAMP RESORT RECREATIONAL VEHICLE PARK. POSTPONED TO APRIL 24, 2003 -- 3-27-2003

Zoning Director Whiteford said that a 30-day postponement had been received for this item.

PUBLIC COMMENT: None

MOTION to POSTPONE items 2.A.1., 2.A.2., 2.A.3., and 5.B.30. to April 24, 2003, and items 2.A.5. and 4.B.27. to May 22, 2003, and to pull item 2.A.4. for discussion. Motion by Commissioner Aaronson, seconded by Commissioner Greene, and carried 5-0. Commissioners Koons and Marcus absent.

2.B. WITHDRAWALS

2.B.6.

PETITION 81-186

RESOLUTION FOR PETITION DOA81-186(H) (POLLO TROPICAL AT LEE'S SQUARE) OF SPILAN INC., BY SARA LOCKHART, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT TO ALLOW A FAST FOOD RESTAURANT ON THE 1.0-ACRE PROPERTY LOCATED AT THE NORTHEAST CORNER OF LANTANA ROAD AND JOG ROAD. (P.O.P. 6829626 AND 6829649 [1-23-2003]) WITHDRAWN BY PETITIONER; NO MOTION REQUIRED -- 3-27-2003

PUBLIC COMMENT: None

WITHDRAWALS - CONTINUED

2.B.7.

PETITION 99-77

STATUS REPORT CR 1999-077/E2 FOR RESOLUTION R-2000-1234 FOR PETITION 99-77 (OKEECHOBEE/441 PUD) OF ARTHUR LEIBOVIT, HELEN GODFRIEND, AND IRVING DENMARK, PETITIONER (PROPERTY OWNER: WELDON TOWNHOUSE LIMITED) FOR THE 40.0-ACRE PROPERTY LOCATED AT THE SOUTHEAST CORNER OF STATE ROAD 7 (U.S. 441) AND OKEECHOBEE BOULEVARD, WHICH IS ZONED RESIDENTIAL PLANNED UNIT DEVELOPMENT. A GOVERNMENT-CAUSED DELAY QUALIFIES FOR A TIME EXTENSION TO MAY 1, 2003. WITHDRAWN BY STAFF; NO MOTION REQUIRED -- 3-27-2003

3.F.14.

PETITION 82-2

STATUS REPORT SR 1982-002B FOR RESOLUTIONS R-2000-115 AND R-2000-116 FOR PETITION 82-2(B) (BISHOP PROPERTY) OF WCI COMMUNITIES LTD., PETITIONER (PROPERTY OWNER: FLORIDA NATIONAL PROPERTIES, INC.), TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-2000-0115 AND R-2000-0116. THE 398.94-ACRE PROPERTY IS LOCATED NORTH OF THE BROWARD COUNTY LINE AND EAST OF THE CONSERVATION AREA AND IS ZONED SPECIAL AGRICULTURAL WITH A CLASS A CONDITIONAL USE TO ALLOW A TYPE III B EXCAVATION. WITHDRAWN; NO MOTION REQUIRED -- 3-27-2003

Zoning Director Whiteford stated that this item had been withdrawn inasmuch as the petitioner had commenced development.

3. CONSENT AGENDA

PUBLIC COMMENT: None

MOTION to approve the consent agenda as amended and adopt resolutions affirming the applicable actions, and to pull item 2.A.4. from postponements. Motion by Commissioner Aaronson, seconded by Commissioner Greene, and carried 5-0. Commissioners Koons and Marcus absent.

3.A. REQUESTS TO PULL ITEMS FROM CONSENT AGENDA

Commissioner Masilotti pulled item 3.C.9. (see pages 14-15) and, on behalf of the petitioner, item 3.F.23. (see pages 15-16.)

3.B. REMAND

3.B.8.

PETITION 98-73

RESOLUTION FOR PETITION PDD98-73(4) (NEW ALBANY POD E) OF HERBERT F. KAHLERT AND KARL A. KAHLERT, BY KIERAN J. KILDAY, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT TO A PLANNED DEVELOPMENT DISTRICT FROM AGRICULTURAL RESIDENTIAL TO MULTIPLE USE PLANNED DEVELOPMENT WITH A HOTEL/MOTEL AND A FAST FOOD RESTAURANT AS REQUESTED USES FOR THE 23.88-ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF HAGEN RANCH ROAD AND BOYNTON BEACH BOULEVARD. (P.O.P. 6914494 AND 6914529 [2-27-2003]) REMANDED TO JUNE 11, 2003, DEVELOPMENT REVIEW COMMITTEE MEETING -- 3-27-2003

CONSENT AGENDA - CONTINUED

3.C. PREVIOUSLY POSTPONED ZONING PETITIONS

3.C.9. See pages 14-15.

3.D. ZONING PETITIONS

3.D.10. RESOLUTION R-2003-0423

RESOLUTION FOR PETITION Z/COZ2002-063 (HARBOR PLACE) OF COMMUNITIES FINANCE COMPANY, BY KIERAN J. KILDAY, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM LIGHT INDUSTRIAL AND AGRICULTURAL RESIDENTIAL TO RESIDENTIAL TRANSITIONAL SUBURBAN WITH A CONDITIONAL OVERLAY ZONE FOR THE 5.7-ACRE PROPERTY LOCATED APPROXIMATELY 2,700 FEET NORTH OF DONALD ROSS ROAD ON THE EAST SIDE OF PALMWOOD ROAD. (P.O.P. 6981413 AND 6981447) ADOPTED WITH CONDITIONS 3-27-2003

3.E. PREVIOUSLY POSTPONED STATUS REPORTS

3.E.11. PETITION 80-173

STATUS REPORT SR 1980-173C.4 FOR RESOLUTION R-94-1681 FOR PETITION 80-173(C) (WAL-MART PLAZA) OF WAL-MART STORES, INC., PETITIONER (PROPERTY OWNER: WAL-MART STORES #1398), TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-94-1681. THE 9.75-ACRE PROPERTY IS LOCATED AT THE NORTHWEST CORNER OF HYPOLUXO ROAD AND MILITARY TRAIL AND IS ZONED GENERAL COMMERCIAL WITH A DEVELOPMENT ORDER AMENDMENT TO INCREASE SQUARE FOOTAGE IN A PLANNED COMMERCIAL DEVELOPMENT. APPROVED 3-27-2003

3.E.12. PETITION 87-33

STATUS REPORT SR 1987-033A.8 FOR RESOLUTIONS R-91-246 AND R-91-247 (PETITION 87-33[A]) OF GATOR POND PROPERTIES II, INC., PETITIONER (PROPERTY OWNER: FAMILY INC. OF PALM BEACHES AND LJR ASSOCIATES PROP. LTD.) TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-91-246 AND R-91-247. THE 2.30-ACRE PROPERTY IS LOCATED AT THE SOUTHWEST CORNER OF WESTGATE AVENUE AND CONGRESS AVENUE, WHICH IS ZONED GENERAL COMMERCIAL WITH A SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A COMMERCIAL NEW AND USED SPECIAL AUTOMOBILE SALES, RENTAL, AND REPAIR FACILITY TO INCREASE THE LAND AREA, INCREASE BUILDING SQUARE FOOTAGE, REDESIGN THE SITE, AND INCLUDE AN AUTO SERVICE STATION, CONVENIENCE STORE, AND CAR WASH FACILITY. POSTPONED TO AUGUST 10, 2003 -- 3-27-2003

CONSENT AGENDA - CONTINUED

3.F. STATUS REPORTS

3.F.13. PETITION 78-40

STATUS REPORT SR1978-040A FOR RESOLUTION R-1999-104 FOR PETITION 78-40(A) (WELLMAN PLAZA) OF NICHOLAS WELLMAN AND JOAN WELLMAN, PETITIONER (PROPERTY OWNER: WELLMAN CARE, INC., AND ORTEGA MANAGEMENT CORPORATION), TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-1999-104. THE 3.53-ACRE PROPERTY IS LOCATED AT THE NORTHWEST CORNER OF MELALEUCA LANE AND MILITARY TRAIL AND IS ZONED GENERAL COMMERCIAL WITH A SPECIAL EXCEPTION TO ALLOW A GENERAL DAYCARE (125 CHILDREN), CONVENIENCE STORE WITH GAS SALES AND RETAIL, FINANCIAL CENTER, AND OFFICE BUILDING. APPROVED 3-27-2003

3.F.14. See page 5.

3.F.15. PETITION 85-84

STATUS REPORT SR 1985-084C.2 FOR RESOLUTION R-97-958 FOR PETITION 85-84(C) (BEREAN BAPTIST TEMPLE) OF BEREAN BAPTIST CHURCH OF WEST PALM BEACH, PETITIONER-PROPERTY OWNER, TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-97-958. THE 18.79-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.4 MILE WEST OF BENOIST FARMS ROAD ON THE SOUTH SIDE OF OKEECHOBEE BOULEVARD AND IS ZONED SINGLE-FAMILY RESIDENTIAL WITH A SPECIAL EXCEPTION TO ALLOW A CHURCH OR PLACE OF WORSHIP WITH A CHILD DAYCARE FACILITY AND SCHOOL. APPROVED 3-27-2003

3.F.16. PETITION 85-113

STATUS REPORT SR 1985-113B.8 FOR RESOLUTION R-94-12 FOR PETITION 85-113(B) OF WILLIAM CLEVE AND DAPHNE CLEVE, PETITIONER (PROPERTY OWNER: FRANCALBY CORPORATION), TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-94-12. THE 4.04-ACRE PROPERTY IS LOCATED AT THE NORTHEAST CORNER OF HYPOLUXO ROAD AND HIGH RIDGE ROAD AND IS ZONED COMMUNITY COMMERCIAL WITH A CONDITIONAL OVERLAY ZONE. APPROVED 3-27-2003

3.F.17. RESOLUTION R-2003-0424

RESOLUTION FOR STATUS REPORT SR 86-114B FOR RESOLUTION R-97-148 FOR PETITION 86-114(B) (SUMMIT CHRISTIAN SCHOOL) OF SUMMIT CHRISTIAN SCHOOL OF PALM BEACH COUNTY, PETITIONER-PROPERTY OWNER, TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-97-148 AND TO ADOPT A RESOLUTION TO AMEND CONDITIONS OF APPROVAL (ARCHITECTURAL GUIDELINES) IN R-97-48. THE 18.16-ACRE PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF HAVERHILL ROAD AND SUMMIT BOULEVARD AND IS ZONED MULTIFAMILY RESIDENTIAL (MEDIUM DENSITY) WITH A SPECIAL EXCEPTION FOR A PRIVATE EDUCATIONAL INSTITUTION INCLUDING DAYCARE. APPROVED THE TIME EXTENSION AND ADOPTED THE RESOLUTION 3-27-2003

Zoning Director Whiteford pointed out that the motion for this item had been revised on the amendments to the agenda sheet (i.e., addition of adoption of resolution).

CONSENT AGENDA - CONTINUED

3.F.18.

PETITION 87-118

STATUS REPORT SR 1987-118.10 FOR RESOLUTIONS R-88-1803 AND R-88-1804 FOR PETITION 87-118 (BELVEDERE PID [PLANNED INDUSTRIAL DEVELOPMENT]) OF THOMAS B. CUSHING AND NANCY S. CUSHING, PETITIONER-PROPERTY OWNER, TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-88-1803 AND R-88-1804. THE 5.0-ACRE PROPERTY IS LOCATED APPROXIMATELY 330 FEET NORTHEAST OF THE INTERSECTION OF JOHNSON LANE AND FAIRGROUNDS ROAD AND IS ZONED LIGHT INDUSTRIAL WITH A SPECIAL EXCEPTION TO PERMIT A PLANNED INDUSTRIAL PARK DEVELOPMENT. APPROVED 3-27-2003

3.F.19.

PETITION 94-36

STATUS REPORT SR 1994-036.4 FOR RESOLUTION R-94-1086 FOR PETITION 94-36 (ZAMMIT PETITION) OF VALERIE T. ZAMMIT, TRUSTEE, PETITIONER-PROPERTY OWNER, TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-94-1086. THE 12.5-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.25 MILE EAST OF PIKE ROAD ON THE SOUTH SIDE OF BELVEDERE ROAD AND IS ZONED LIGHT INDUSTRIAL WITH A CONDITIONAL OVERLAY ZONE. APPROVED 3-27-2003

3.F.20.

PETITION 95-31

STATUS REPORT SR 1995-031.6 FOR RESOLUTION R-95-1115 FOR PETITION 95-31 (JOHNSON PROPERTY) OF JOHNSON BROTHERS CONSOLIDATED WASTE, INC., PETITIONER (PROPERTY OWNER: KIRMS COMMUNICATIONS, INC.), TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-95-1115. THE 0.74-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.1 MILE NORTH OF SOUTHERN BOULEVARD ON THE WEST SIDE OF TALL PINES ROAD. APPROVED 3-27-2003

3.F.21.

PETITION 97-71

STATUS REPORT SR 1997-071.2 FOR RESOLUTION R-98-125 FOR PETITION 97-71 (HAGEN & BOYNTON OFFICE) OF ORIOLE HOMES CORPORATION, PETITIONER (PROPERTY OWNER: ANSCA OFFICE BUILDING, LTD.), TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-98-125. THE 4.24-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.4 MILE WEST OF HAGEN RANCH ROAD ON THE NORTH SIDE OF BOYNTON BEACH BOULEVARD AND IS ZONED MULTIPLE USE PLANNED DEVELOPMENT. APPROVED 3-27-2003

3.F.22.

PETITION 98-42

STATUS REPORT SR 1998-042.2 FOR RESOLUTION R-98-1313 FOR PETITION 98-42 (SOUTHERN RETAIL) OF BRUCE K. GREENFIELD AND CHARLES E. VALLOVICH, PETITIONER (PROPERTY OWNER: NICHOLAS RIZZO, TRUSTEE, AND LORI RIZZO, TRUSTEE), TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-98-1313. THE 1.76-ACRE PROPERTY IS LOCATED APPROXIMATELY 1,300 FEET WEST OF D ROAD ON THE NORTH SIDE OF SOUTHERN BOULEVARD AND IS ZONED COMMUNITY COMMERCIAL. APPROVED 3-27-2003

3.F.23. See pages 15-16.

CONSENT AGENDA - CONTINUED

3.F.24.

PETITION 99-65

STATUS REPORT SR 1999-065 FOR RESOLUTION R-2000-0119 FOR PETITION 99-65 (JOG PINES PUD/CLF [CONGREGATE LIVING FACILITY]) OF THE ESTATE OF H. C. SUMMERS, PETITIONER (PROPERTY OWNER: ZS PROPERTIES), TO APPROVE A TIME EXTENSION TO AUGUST 10, 2003, FOR R-2000-0119. THE 5.3-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.5 MILE SOUTH OF BOYNTON BEACH BOULEVARD ON THE WEST SIDE OF JOG ROAD AND IS ZONED PLANNED UNIT DEVELOPMENT. APPROVED 3-27-2003

3.G. CORRECTIVE RESOLUTIONS

3.G.25.

**RESOLUTION R-2003-0425
(AMENDS R-2001-0813)**

RESOLUTION FOR PETITION DOA76-6(A) (SEDONA COMMONS MUPD [MULTIPLE USE PLANNED DEVELOPMENT]) OF DANIEL T. BAKST, TRUSTEE, TO CORRECT THE LEGAL DESCRIPTION IN RESOLUTION R-2001-0813 CONCERNING TRACT C, 6.03 ACRES OF THE 20.66-ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF BENOIST FARMS ROAD AND OKEECHOBEE BOULEVARD. ADOPTED 3-27-2003

3.G.26.

**RESOLUTION R-2003-0426
(AMENDS R-2002-1234)**

RESOLUTION FOR PETITION DOA76-6(B) (SEDONA COMMONS) OF 8190 INVESTMENT TO CORRECT THE LEGAL DESCRIPTION IN RESOLUTION R-2002-1234 CONCERNING THE 2.63-ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF OKEECHOBEE BOULEVARD AND BENOIST FARMS ROAD. ADOPTED 3-27-2003

4.B.28.

RESOLUTION R-2003-0427

RESOLUTION FOR PETITION 2002-049 (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 WITH A CONDITIONAL OVERLAY ZONE FOR 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 [2-27-2003]) ADOPTED WITH CONDITIONS 4-27-2003

Zoning Director Whiteford noted that staff wished to add this item to the consent agenda because outstanding issues had been resolved and no public comment cards had been received on the item.

(CLERK'S NOTE: The motion adding item 4.B.28. to the consent agenda immediately follows item 4.B.29.; see page 10.)

CONSENT AGENDA - CONTINUED

4.B.29.

a. RESOLUTION R-2003-0428

RESOLUTION FOR PETITION Z81-224(A) (VALENCIA CENTER) OF RPG OF SOUTH FLORIDA, BY ROBERT A. BENTZ, AGENT, FOR A REZONING FROM SPECIALIZED COMMERCIAL AND COMMUNITY COMMERCIAL WITH A CONDITIONAL OVERLAY ZONE FOR 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 [2-27-2003]) ADOPTED WITH CONDITIONS 3-27-2003

**b. RESOLUTION R-2003-0429
(AMENDS R-82-141)**

RESOLUTION FOR PETITION Z81-224(A) (VALENCIA CENTER) OF RPG OF SOUTH FLORIDA, BY ROBERT A. BENTZ, AGENT, TO ABANDON THE SPECIAL EXCEPTION GRANTED UNDER RESOLUTION R-82-141 TO ALLOW A PLANNED OFFICE BUSINESS PARK. 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 [2-27-2003]) ADOPTED 3-27-2003

Zoning Director Whiteford remarked that staff wished to add this item to the consent agenda because outstanding issues had been resolved and no public comment cards had been received.

MOTION to move items 4.B.28. and 4.B.29. to the consent agenda. Motion by Commissioner Aaronson, seconded by Commissioner McCarty, and carried 5-0. Commissioners Koons and Marcus absent.

4. REGULAR AGENDA

4.A. ITEMS PULLED FROM CONSENT AGENDA (AND POSTPONEMENTS)

2.A.4.

a. RESOLUTION R-2003-0430

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 (AR) TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD) WITH AN EXISTING COMMERCIAL COMMUNICATION TOWER IN THE PUBLIC CIVIC TRACT AS A REQUESTED USE. THE 62.05-ACRE PROPERTY IS LOCATED APPROXIMATELY 750 FEET WEST OF LYONS ROAD ON THE SOUTH SIDE OF LANTANA ROAD. THE ORIGINAL AGENDA MOTION WAS A STAFF-RECOMMENDED POSTPONEMENT FOR 30 DAYS (TO APRIL 24, 2003.) (P.O.P. 6914494 AND 6914529 [2-27-2003]) ADOPTED WITH CONDITIONS AS AMENDED 3-27-2003

REGULAR AGENDA (PULLED ITEMS) - CONTINUED

2.A.4. - CONTINUED

b.

RESOLUTION R-2003-0431

RESOLUTION FOR PETITION TDR95-118(B) (LANTANA ROAD PUD) OF AMKBJ PARTNERS LTD., BY JOE LELONEK, AGENT, FOR A TRANSFER OF DEVELOPMENT RIGHTS (TDR) FOR THREE UNITS AND TO DESIGNATE 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. THE ORIGINAL AGENDA MOTION WAS A STAFF-RECOMMENDED POSTPONEMENT FOR 30 DAYS (TO APRIL 24, 2003.) (P.O.P. 6914494 AND 6914529 [2-27-2003]) ADOPTED WITH CONDITIONS AS AMENDED 3-27-2003

Zoning Director Whiteford stated that this item had been pulled from postponements. The amendments to the agenda sheet showed that action as well as the addition of condition A.3. The action of pulling the item from the consent agenda was included in the motion to approve the consent agenda (see page 5.)

Planner Eric McClellan gave the staff presentation on this item, addressing the following comments to the commercial communication tower:

- A 0.3-acre parcel along the southern boundary is occupied by an existing 150-foot-high commercial communication tower that was approved by the Board of County Commissioners (BCC) in May 1996 and will remain unaffected by the proposed development. Section 6.4 of the Unified Land Development Code (ULDC) permits a commercial communication tower in a PUD only if located within a public civic tract.
- Condition A.3 on the amendments to the agenda sheet has been accepted by the petitioner as a measure to bring the tower into compliance with ULDC requirements. The condition requires that a conservation easement be recorded with South Florida Water Management District (SFWMD) for the 6.91 acres of wetlands surrounding the tower parcel; it restricts the tower to its existing condition; and it requires that a conservation easement be recorded for the tower site upon expiration of the tower leases and when the tower is no longer in use. At that time, the property owner shall be required to remove the tower and install vegetation on the tower parcel.

Mr. Whiteford said that staff originally recommended a postponement because they did not think they would have a code interpretation issue resolved by today. It was resolved, however, in new condition A.3.

Assistant County Attorney Banks advised that the condition affected only the underlying property owner. It had no effect whatever on the lease with the tower company and its subleases.

Commissioner Newell suggested including in the declaration, recording, or unity the provision that there will be no liability from the tenants to the county.

PUBLIC COMMENT:

Jim Snay, representing Crown Castle USA, tower management owner of the tower site, made the following comments:

REGULAR AGENDA (PULLED ITEMS) - CONTINUED

2.A.4. - CONTINUED

- He had not been informed of this petition by the county. He had learned about it only by going every month to county offices and pulling the file and reading it.
- Crown Castle had been contacted by the developer to work on the tower site. After due diligence, the developer realized the tower could not stay on the property if it was going to be rezoned to residential. When Crown Castle informed the developer of the cost to take down the tower and stealth it, thus permitting the tower to remain, and of Crown Castle's intention to pay no part of it because it had already paid for the tower, Crown Castle never heard from the developer again.
- Crown Castle has had no opportunity to work with the developer.
- Crown Castle's lease agreement with the property owner prohibits the owner from applying for a rezoning that would affect the tower or, indeed, for any rezoning without Crown Castle's agreement.
- Crown Castle paid the property owner a large sum of money to transfer rights to them from BellSouth Mobility.
- According to Florida Statute 713, Crown Castle has a vested interest in this property under its long-term lease. Other wireless operators--Verizon, Nextel, Sprint, and BellSouth--sublease from Crown Castle and have a vested interest as well.
- Crown Castle would not agree to the new condition, and the sublessees would not be happy about it.
- He requested a postponement on the item to enable Crown Castle to get its corporate attorneys involved.

Commissioner Masilotti responded that Crown Castle's concerns were a matter for the courts and could not factor into the board's consideration of the zoning application.

Mr. Banks advised that the county had the consent of the property owner because the owner still owns the tower parcel site. The county never obtains consent from lessees; it would never be able to make changes to a project if it had to do so. The new condition had no effect on the existing tower, the existing lease or lease arrangements, or the right to operate the tower through the lease or any extensions allowed in the lease. The county cannot do that anyway because the county cannot impair the existing contract.

Mr. Snay asked whether the county intended to become owner of the property. Mr. Banks replied that the property will eventually be owned by the homeowners association after the lease expires, with a conservation easement to SFWMD.

Mr. Snay observed the condition restricts the tower to its existing condition and asked if Crown Castle would be able to add another carrier to the tower. Mr. Banks replied that Crown Castle would be able to do so and that the only thing the county cared about the tower was that it remain a 150-foot-high monopole.

REGULAR AGENDA (PULLED ITEMS) - CONTINUED

2.A.4. - CONTINUED

Joe Lelonek, agent, requested the following modifications to new condition A.3:

- “Prior to the final DRC certification of the site plan...” to “Prior to technical compliance for the first plat...”

He explained that SFWMD needed an approved site plan before it could define the conservation areas.

Mr. Whiteford agreed to the change.

- Condition A.3.b. should be numbered A.4.

Principal Planner Maryann Kwok agreed.

Mr. Lelonek then asked for the following revisions to the new condition A.4.:

- From “...Maintenance of the tower shall be allowed, but all modifications shall be prohibited...” to “...Maintenance of the tower shall be allowed, but all modifications to increase the height or change the type of structure shall be prohibited unless those are allowed under the current lease.”
- From “...when the communication tower is no longer in use or the tower lease expires, whichever occurs first...” to “when the communication tower is no longer in use and the tower lease has been expired...”
- From “...No extension or renewal of the tower lease shall be allowed” to “...No extension or renewal of the tower lease beyond those allowed within the existing tower leases shall be allowed.”

Commissioner Masilotti observed that when an item has this many changes, it should be postponed, not put on the agenda.

Commissioner Masilotti asked if the petitioner would be paying the current TDR price of \$13,308. Mr. McClellan responded that the former price of \$10,399 would apply because the project was certified before the new price went into effect.

Brian Tuttle, developer, said he would be willing to pay the new price.

MOTION to adopt a resolution approving the request for a rezoning from AR to residential PUD, subject to conditions as amended. Motion by Commissioner Newell, seconded by Commissioner McCarty, and carried 5-0. Commissioners Koons and Marcus absent.

MOTION to adopt a resolution approving a transfer of development rights for three units, subject to conditions as amended (i.e., change of unit purchase price from \$10,399 to \$13,308), and to designate this petition as the receiving area. Motion by Commissioner Newell, seconded by Commissioner McCarty, and carried 5-0. Commissioners Koons and Marcus absent.

REGULAR AGENDA (PULLED ITEMS) - CONTINUED

3.C.9.

a. RESOLUTION R-2003-0432

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 (AR) TO LIGHT INDUSTRIAL (IL) 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 [2-27-2003]) ADOPTED 3-27-2003

**b. RESOLUTION R-2003-0433
(AMENDS R-89-346)**

RESOLUTION FOR PETITION DOA88-19(A) (BENOIST FARMS ROAD PROPERTY) OF SEYMOUR APPLEBAUM AND SUSAN APPLEBAUM, BY ANNA COTTRELL, AGENT, 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 [2-27-2003]) ADOPTED WITH CONDITIONS AS AMENDED AND WITH DIRECTION 3-27-2003

Zoning Director Whiteford indicated that this item had been modified on the amendments to the agenda sheet.

Commissioner Masilotti cited this item as an example of how well staff can work with an individual private property owner to improve a site that at one time was little more than a junkyard. He asked staff to describe how this was done.

Planner Joyell Shaw responded that the site plan had been flipped. Staff asked the petitioners to place a 6-foot-high wall and additional 20-foot-wide buffer on the north property line and, on the east property line, to upgrade the buffer to 10 feet wide, install a polyvinyl fence with landscaping on both sides, install a fence around the retention area, and plant additional shrubs and hedges.

Mr. Whiteford said that in areas of heavy industrial use, such as this, the county's rule essentially was to not "hear it, see it, or smell it." The agent addressed those issues, he said.

Commissioner Masilotti remarked that measures such as these needed to be incorporated in all IL zoning projects in the future in order to deal with areas proactively.

Mr. Whiteford said that new junkyards are not noticeable because of current regulations. Old junkyards that undergo gentrification are redeveloped to come into compliance with today's code standards.

Commissioner Masilotti cited a junkyard at Southern Boulevard and the Florida Turnpike full of old Miami-Dade buses surrounded by an old chain link fence.

Mr. Whiteford said a project was being proposed for that site and would be subject to gentrification. Staff was in discussions with the agent about making the project a quality development.

REGULAR AGENDA (PULLED ITEMS) - CONTINUED

3.C.9. - CONTINUED

Anna Cottrell, agent, agreed to the conditions.

MOTION: (1) to adopt a resolution approving the request for a rezoning from AR to IL; and (2) to adopt a resolution approving the request to reconfigure the site plan, subject to conditions as amended. Motion by Commissioner Aaronson and seconded by Commissioner Greene.

PUBLIC COMMENT:

Edna Trimble spoke in support of the project, remarking that her concerns and those of her neighbors had been well satisfied.

UPON CALL FOR A VOTE, the motion carried 5-0. Commissioners Koons and Marcus absent.

3.F.23.

PETITION 98-62

STATUS REPORT SR 1998-062.2 FOR RESOLUTION R-99-99 FOR PETITION 98-62 (WEITZ AND SPARLING) OF PIKE INVESTMENTS, INC., AND CAPITAL RESOURCES GROUP, INC., PETITIONER (PROPERTY OWNER: PIKE INVESTMENTS, INC.), TO APPROVE A TIME EXTENSION TO JANUARY 28, 2004, FOR R-99-99. THE 10.0-ACRE PROPERTY IS LOCATED APPROXIMATELY 1,000 FEET EAST OF PIKE ROAD ON THE NORTH SIDE OF 7TH PLACE NORTH AND IS ZONED LIGHT INDUSTRIAL. APPROVED A TIME EXTENSION TO AUGUST 10, 2003 -- 3-27-2003

Principal Planner Linda Monroe said that staff recommended a time extension to January 28, 2004, and an amendment to the voluntary commitments that no building permits would be issued until the contract was awarded for construction of Southern Boulevard from State Road 7 to Haverhill Road as an 8-lane divided cross section. This would enable the project to meet the traffic performance standards (TPS). The property owner had a time extension which expired, and then, because he had a complete building permit application, he was allowed an additional 90 days to commence development. In that 90 days, he still was not able to get the building permit issued. A plat issue is preventing issuance of the permit. The agent would argue that the time extension should be approved and that it be without the voluntary commitment based on the property owner's work to date. If the board chose to approve a time extension as the agent has requested, staff would recommend it be not longer than August 10, 2003, to match the time extensions of other projects on today's agenda.

Robert E. Basehart, agent, said the property owner--George Sparling, president of Pike Investments and of Hudson Sparling Construction--has been working diligently to get this project under construction but that it had been delayed for a number of reasons. Mr. Sparling had to do an environmental preserve area on the site. He had to modify his plans in order to reroute his proposed sewer to help defray the cost of the county lift station.

MOTION to approve a time extension to August 10, 2003. Motion by Commissioner Aaronson and seconded by Commissioner McCarty.

Assistant County Attorney Banks advised that the extension did not include the added voluntary commitment in the monitoring status report.

REGULAR AGENDA (PULLED ITEMS) - CONTINUED

3.F.23. - CONTINUED

UPON CALL FOR A VOTE, the motion carried 5-0. Commissioners Koons and Marcus absent.

4.B. PREVIOUSLY POSTPONED ZONING PETITIONS

4.B.27. See page 4.

4.B.28. See pages 9 and 10.

4.B.29. See page 10.

5. DIRECTOR COMMENTS

5.A. ZONING DIRECTOR - None

5.B. PLANNING DIRECTOR

5.B.30. See page 4.

6. COMMISSIONER COMMENTS

6.A. COMMISSIONER NEWELL

6.A.31.

PALM BEACH THOROUGHBRED TRAINING FARMS. DISCUSSED WITH DIRECTION 3-27-2003

Commissioner Newell noted that, initially, there had been a significant amount of objection from West Boynton Beach residents about locating this facility in the Agricultural Reserve but that now a majority of the residents regard it as being a positive part of their community. He suggested that the staff and the owner give a presentation on the project's success at the May 22, 2003, meeting.

No backup provided.

7. ADJOURNMENT

The chair declared the meeting adjourned at 10:13 a.m.

ATTESTED:

APPROVED:

Clerk

Chair