

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 May 22, 2003, 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 Karen T. Marcus
Vice-Chair Tony Masilotti - Absent
Commissioner Burt Aaronson
Commissioner Addie L. Greene
Commissioner Jeff Koons
Commissioner Mary McCarty - Absent
Commissioner Warren H. Newell - Arrived later
Assistant County Attorney Robert P. Banks
Deputy Clerk Joan Haverly

1.B.1. INVOCATION - Commissioner Koons

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 May 22, 2003, at 9:30 a.m., in the County Commission Chambers, 6th Floor, 301 North Olive Avenue, West Palm Beach, Florida.

Following the next item, Commissioner Marcus cited an earlier request she had made for a determination on whether reading the remarks was a statutory requirement. Assistant County Attorney Banks responded that he had advised staff that the item did not have to be on the agenda. Zoning Director William C. Whiteford said the item was removed from the agenda to the agenda index and that reading it was optional. Commissioner Marcus directed that it be removed from the index as well.

1.D. PROOF OF PUBLICATION APPROVED 5-22-2003

MOTION to receive and file proofs of publication 7150953, 7151077, and 7225327. Motion by Commissioner Aaronson, seconded by Commissioner Koons, and carried 4-0. Commissioners McCarty, Masilotti, and Newell absent.

PROOF OF PUBLICATION - CONTINUED

(CLERK'S NOTE: The following proofs of publication were approved for receipt and file in earlier meetings: 6512124 [9-26-2002]; 6715417 [12-9-2002]; 6914494 and 6914529 [2-27-2003]; 6981413 and 6981447 [3-27-2003]; and 7062392 and 7128625 [4-24-2003].)

(CLERK'S NOTE: Discussion of item 1.C. took place at this time.)

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

1.E. SWEARING-IN BY ASSISTANT COUNTY ATTORNEY

1.F. ADOPTION OF AGENDA

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

1.E.1. AMENDMENTS TO THE AGENDA

<u>Page</u>	<u>Item</u>	<u>Petition/Change</u>
3	3.C.5.	Petition CA2002-057 - First Holiness Church of the Living God: Modify conditions.
4	3.C.7.	Petition DOA/EAC83-581 - Lakes of Boynton/Enclave at Boynton Waters Pod B: Modify conditions.
4	3.C.9.	Petition DOA96-86(A) - Delray Co-Housing, aka Synergy Co-Housing: Modify conditions.
5	3.D.10.	Status Report SR 1984-160.8 - Summit Pines PUD: Modify conditions.
8	4.C.20.	Petition CA2002-017 - Mallards Cove: Postpone to June 26, 2003. (Petitioner requested 30 days.)

2. POSTPONEMENTS AND WITHDRAWALS - See pages 3-4.

3. CONSENT AGENDA - See pages 4-11.

4. REGULAR AGENDA - See pages 11-13.

5. DIRECTOR COMMENTS - See pages 13-15.

6. COMMISSIONER COMMENTS - None

7. ADJOURNMENT - See page 15.

2. POSTPONEMENTS AND WITHDRAWALS

2.A. POSTPONEMENTS

2.A.1. PETITION 2002-037

RESOLUTION FOR PETITION PDD2002-037 (MASTROIANNI MUPD) OF RONALD MASTROIANNI AND DAVID MOSCARELLI, BY ROBERT A. BENTZ, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT TO A PLANNED DEVELOPMENT DISTRICT FROM AGRICULTURAL RESIDENTIAL TO MULTIPLE USE PLANNED DEVELOPMENT DISTRICT (MUPD) FOR THE 9.15-ACRE PROPERTY LOCATED APPROXIMATELY 330 FEET WEST OF THE FLORIDA TURNPIKE ON THE SOUTH SIDE OF LAKE WORTH ROAD. (P.O.P. 7062392 AND 7128625 [4-24-2003]) POSTPONED TO JUNE 26, 2003 - - 5-22-2003

2.A.2. See below and pages 4 and 12.

2.A.3. 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 [3-27-2003]) POSTPONED TO JUNE 26, 2003 -- 5-22-2003

4.C.20. PETITION 2002-017

RESOLUTION FOR PETITION CA2002-017 (MALLARDS COVE) OF MACKEY DEVELOPMENT, BY H. BURTON SMITH, AGENT, FOR A CLASS A CONDITIONAL USE ALLOWING A VOLUNTARY DENSITY BONUS FOR THE 3.63-ACRE PROPERTY LOCATED APPROXIMATELY 600 FEET WEST OF CENTRAL BOULEVARD ON THE SOUTH SIDE OF JUPITER GARDENS BOULEVARD. (P.O.P. 7062392 AND 7128625 [4-24-2003]) POSTPONED TO JUNE 26, 2003 -- 5-22-2003

Zoning Director Whiteford remarked that the amendments to the agenda sheet contained a postponement by right for Mallards Cove to June 26, 2003.

MOTION to POSTPONE items 2.A.1., 2.A.2., 2.A.3., and 4.C.20. to June 26, 2003. Motion by Commissioner Aaronson and seconded by Commissioner Koons.

Commissioner Newell requested a separate discussion on item 2.A.2. to enable staff to update the board on the status of the item.

AMENDED MOTION to POSTPONE items 2.A.1., 2.A.3., and 4.C.20. to June 26, 2003. The maker and seconder agreed.

PUBLIC COMMENT: None

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

POSTPONEMENTS - CONTINUED

2.A.2.

PETITION 2001-017

RESOLUTION FOR PETITION EAC2001-017(A) (10TH & BOUTWELL BP) OF BP PRODUCTS NORTH AMERICA, INC., BY TIMOTHY J. 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 JUNE 26, 2003 -- 5-22-2003

Zoning Director Whiteford said that the postponement had been requested by the agent in order to resolve an issue concerning a buffering condition conflict with the board-favored petitioner graphic. A compromise had been reached by staff and agent Ron Kolins and was to be submitted to the petitioner by the agent.

Commissioner Newell commented on the difficulty involved in bringing this petition to fruition.

PUBLIC COMMENT: None

MOTION to POSTPONE the item to June 26, 2003. Motion by Commissioner Newell, seconded by Commissioner Koons, and carried 5-0. Commissioners McCarty and Masilotti absent.

(CLERK'S NOTE: Disclosure was given on this item later in the meeting; see page 12.)

2.B. WITHDRAWALS - None

3. CONSENT AGENDA

PUBLIC COMMENT: None

(CLERK'S NOTE: The following motion was made later in the meeting; see page 11.)

MOTION to approve the consent agenda as amended on the amendments to the agenda sheet, and with the exception of the revised action taken by the board on item 3.D.11., and adopt resolutions affirming the applicable actions. Motion by Commissioner Koons, seconded by Commissioner Aaronson, and carried 4-1. Commissioner Marcus opposed. Commissioners McCarty and Masilotti absent.

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

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CONSENT AGENDA - CONTINUED

(CLERK'S NOTE: Item 3.D.11. was discussed at this time. Included briefly in the discussion were items 3.D.10. [see page 9] and 3.D.12 [see page 10].)

3.D.11.

RESOLUTION R-2003-0753 (AMENDS R-87-516)

STATUS REPORT SR 1986-134.10 FOR RESOLUTIONS R-87-515 AND R-87-516 FOR PETITION 86-134 (CONGRESS CENTER) OF TRANSAL CORPORATION, PETITIONER (PROPERTY OWNER: CONGRESS BUSINESS CENTER CORPORATION) TO AMEND CONDITIONS OF APPROVAL (TRAFFIC PERFORMANCE STANDARDS) IN R-97-516 AND APPROVE A TIME EXTENSION UNTIL MARCH 31, 2005, TO COMMENCE DEVELOPMENT. THE 7.24-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.1 MILE NORTH OF FOREST HILL BOULEVARD ON THE WEST SIDE OF CONGRESS AVENUE AND IS ZONED GENERAL COMMERCIAL WITH A SPECIAL EXCEPTION TO ALLOW AN OFFICE-WAREHOUSE COMBINATION. ADOPTED RESOLUTION AND APPROVED TIME EXTENSION TO JULY 24, 2003 -- 5-22-2003

Commissioner Marcus noted that status report items 3.D.10., 3.D.11., and 3.D.12. had been approved in the 1980s and their projects still had not been completed. She proposed that the zoning be revoked on items 3.D.11. and 3.D.12. but not on item 3.D.10. inasmuch as that item's property owner was Palm Beach Habilitation Center, a not-for-profit organization.

Zoning Director Whiteford responded that Principal Planner Linda Monroe coordinates the multi-department process of ensuring earlier-approved projects are consistent with the current Comprehensive Plan and Unified Land Development Code (ULDC).

Discussion then focused on item 3.D.11.

Commissioner Marcus contended it was an issue of more than meeting today's regulations. The county had been holding trips approved in 1986, unused trips for which someone else was waiting. She remarked that if the zoning was revoked, someone might come forward in the surrounding area and incorporate the project into a better use. The county would never know what could be realized, she said, if it continued giving time extensions.

Commissioner Aaronson suggested that the matter be explored in a workshop or zoning hearing. He further suggested that if someone approached the county to develop a property approved for another party in 1986 that the board review the property and possibly revoke its zoning approval at that time. If no one came forward to develop another's property, however, the zoning on that property should stay in place.

Commissioner Marcus stated that the board's only opportunity to revoke the zoning on a long-undeveloped property was when it came forward for a time extension. It was only at that time, she said, that the board had leverage vis-à-vis the undeveloped project. Commissioner Marcus commented that Forest Hill Center might want to incorporate the item 3.D.11. property and make it a better use. She then offered as a compromise the suggestion that the board revoke the zoning only on projects approved in the 1980s.

CONSENT AGENDA - CONTINUED

3.D.11. - CONTINUED

Commissioner Newell stated that the problem with these properties was that they lacked water and sewer service. He recalled that two months previously, he had brought a proposal to the board to provide water and sewer service down Congress Avenue because the properties in that area could never develop without it. The board had not supported the proposal but now was considering revoking the zoning on properties that had not developed and could not develop because the county had not provided the infrastructure that would allow them to do so.

Assistant County Attorney Banks made the following remarks:

- The board's options under the ULDC included granting a time extension, rezoning the property to an appropriate zoning district, or revoking the conditional use.
- The zoning has to be left in a consistent zoning district. Often, there may be only one or two consistent zoning districts.
- Sometimes a petitioner has more options when the conditional use is revoked. The conditional use essentially mitigates the original zoning and provides extra protections. By revoking it, the county might be in a worse situation.

Commissioner Koons suggested seeing what was needed and incentivizing the infrastructure.

Principal Planner Monroe made the following comments:

- The board could not simply revoke a conditional use and revoke a zoning. It had to rezone to any zoning district that was consistent with the Comprehensive Plan. It might be able to rezone to a lower commercial district, depending on the Comprehensive Plan. It might be able to go to the underlying residential district, but that would be inappropriate in the case of a small parcel of land surrounded by commercial zoning.
- Over two years previously, the board had had a similar discussion. She still had the memorandum from that time outlining the problems with having a blanket requirement to revoke development orders and rezone properties and proposed submitting it to the board again.
- Questions to be considered included: (1) Would the board revoke the development order on a 1.0-acre property that is zoned commercial and has no conditional use? (2) Would the board revoke the development order on properties that are about ready for a building permit and that have spent a lot of money to get this far? (3) What would the board do with schools and religious institutions that have a rather difficult time going forward?

Commissioner Aaronson suggested granting a time extension to 2004 instead of 2005. While the extension was not a long one, he said, it would give the board time to review various options.

CONSENT AGENDA - CONTINUED

3.D.11. - CONTINUED

Commissioner Marcus proposed that the board use the Congress Center property as a pilot and, instead of giving it a time extension, initiate the revocation process. Factors to be considered by staff for an advertised public hearing next month included the advisability of zoning the property residential, the points raised by Commissioner Newell, and the incorporation of this property with the property behind it. Then, if the board did not want to revoke the approval next month, it did not have to.

Commissioner Aaronson said he did not object to that idea but suggested approving a time extension for two or three months during which the board could consider Ms. Monroe's memorandum as well as input from the rest of staff.

Ms. Monroe said that this project was one of the first to be caught under the board's newly adopted traffic performance standards (TPS). If the item were approved today, a new condition required the petitioner to submit a new traffic study to the county. If the traffic study was not submitted or if the project did not meet TPS, the petition would have to come back to the board.

Commissioner Marcus pointed out that the item included a time extension to March 2005.

Commissioner Koons said the traffic study was due July 1, 2003.

Commissioner Aaronson recommended granting a time extension to July 2003 to find out about the traffic study.

MOTION to approve a time extension for item 3.D.11. to July 24, 2003. Motion by Commissioner Aaronson, seconded by Commissioner Koons, and carried 4-1. Commissioner Marcus opposed. Commissioners McCarty and Masilotti absent.

3.B. REMAND

3.B.4. 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 (MUPD) 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]) REMANDED TO THE JULY 9, 2003, DEVELOPMENT REVIEW COMMITTEE MEETING (REQUESTED BY PETITIONER) -- 5-22-2003

CONSENT AGENDA - CONTINUED

3.C. ZONING PETITIONS

3.C.5. RESOLUTION R-2003-0754

RESOLUTION FOR PETITION CA2002-057 (FIRST HOLINESS CHURCH OF THE LIVING GOD) OF FIRST HOLINESS CHURCH OF THE LIVING GOD, NO. 3, BY KEVIN MCGINLEY, AGENT, FOR A CLASS A CONDITIONAL USE TO ALLOW A CHURCH OR PLACE OF WORSHIP ON THE 5.09-ACRE PROPERTY LOCATED APPROXIMATELY 0.3 MILE EAST OF F ROAD ON THE SOUTH SIDE OF OKEECHOBEE BOULEVARD. (P.O.P. 7150953 AND 7151077) ADOPTED WITH CONDITIONS AS AMENDED 5-22-2003

The amendments to the agenda sheet contained modifications to conditions M.4. and Q.1.

**3.C.6. RESOLUTION R-2003-0755
(AMENDS R-81-58)**

RESOLUTION FOR PETITION DOA/EAC80-192(A) (MCCARTHY AIRSTRIP) OF JOHN A. MCCARTHY, BY CHARLES PUTNAM, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT/EXPEDITED APPLICATION CONSIDERATION TO MODIFY/DELETE CONDITIONS OF APPROVAL FOR THE 100.0-ACRE PROPERTY LOCATED APPROXIMATELY 4.5 MILES SOUTH OF SOUTHERN BOULEVARD AND FLYING COW RANCH ROAD. (P.O.P. 7225327) ADOPTED WITH CONDITIONS 5-22-2003

**3.C.7. RESOLUTION R-2003-0756
(AMENDS R-97-529)**

RESOLUTION FOR PETITION DOA/EAC83-581 (LAKES OF BOYNTON/ENCLAVE AT BOYNTON WATERS POD B) OF BOYNTON WATERS VILLA CORPORATION, BY ROBERT E. BASEHART, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT/EXPEDITED APPLICATION CONSIDERATION TO REDESIGNATE LAND USE FROM RECREATIONAL TO RESIDENTIAL AND RECONFIGURE POD B OF THE 43.5-ACRE PROPERTY LOCATED APPROXIMATELY 1,200 FEET NORTH OF BOYNTON BEACH BOULEVARD ON THE WEST SIDE OF JOG ROAD. (P.O.P. 7225327) ADOPTED WITH CONDITIONS AS AMENDED 5-22-2003

The amendments to the agenda sheet contained a revision to condition D.1.

**3.C.8. RESOLUTION R-2003-0757
(AMENDS R-2002-0621)**

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 FOR THE 54.95-ACRE PROPERTY 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]) ADOPTED WITH CONDITIONS 5-22-2003

CONSENT AGENDA - CONTINUED

3.C.9.

- a. **RESOLUTION R-2003-0758
(AMENDS R-97-1300)**

RESOLUTION FOR PETITION DOA96-86(A) (DELRAY CO-HOUSING, AKA SYNERGY CO-HOUSING) OF SYMPHONY BUILDERS, BY JAY HUEBNER, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT TO RECONFIGURE THE SITE PLAN AND MODIFY/DELETE CONDITIONS OF APPROVAL FOR THE 3.53-ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF SIMMS ROAD AND ASPEN RIDGE CIRCLE. (P.O.P. 7150953 AND 7151077) ADOPTED WITH VOLUNTARY COMMITMENTS 5-22-2003

- b. **RESOLUTION R-2003-0759
(AMENDS R-2001-0968)**

RESOLUTION FOR PETITION DOA96-86(A) (DELRAY CO-HOUSING, AKA SYNERGY CO-HOUSING) OF SYMPHONY BUILDERS, BY JAY HUEBNER, AGENT, TO MODIFY/DELETE THE VOLUNTARY DENSITY BONUS CONDITIONS OF APPROVAL FOR THE 3.53-ACRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF SIMMS ROAD AND ASPEN RIDGE CIRCLE. (P.O.P. 7150953 AND 7151077) ADOPTED WITH CONDITIONS AS AMENDED 5-22-2003

The amendments to the agenda sheet contained modifications to conditions D.1.b. and D.3.

3.D. STATUS REPORTS

- 3.D.10. RESOLUTION R-2003-0760
(AMENDS R-85-293)**

STATUS REPORT SR 1984-160.8 FOR RESOLUTIONS R-85-292 AND R-85-293 FOR PETITION 84-160 (SUMMIT PINES PUD) OF FOREST HILL VENTURES, PETITIONER (PROPERTY OWNER: PALM BEACH HABILITATION CENTER, INC.), TO AMEND CONDITIONS OF APPROVAL (NUMBER OF RESIDENTS; PLAT) IN R-85-293 AND APPROVE A TIME EXTENSION TO APRIL 27, 2005, IN ORDER TO RECORD A PLAT. THE 2.82-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.5 MILE WEST OF MILITARY TRAIL ON THE SOUTH SIDE OF SUMMIT BOULEVARD AND THE WEST SIDE OF HAVERHILL ROAD AND IS ZONED SINGLE-FAMILY RESIDENTIAL WITH A SPECIAL EXCEPTION TO ALLOW A PLANNED UNIT DEVELOPMENT (PUD). ADOPTED WITH CONDITIONS AS AMENDED 5-22-2003

The amendments to the agenda sheet contained a revision to condition 2.

(CLERK'S NOTE: For a brief discussion of item 3.D.10., see item 3.D.11., page 5.)

- 3.D.11. See pages 5-7.**

CONSENT AGENDA - CONTINUED

3.D.12.

PETITION 87-124

STATUS REPORT SR 87-124A.6 FOR RESOLUTION R-91-371 FOR PETITION 97-124(A) (SUMMIT PARK OF COMMERCE PCD) OF SYSTEMS CONTROL, INC., PETITIONER (PROPERTY OWNER: CMCC VENTURES LTD. AND U.S. POSTAL SERVICE), TO APPROVE A TIME EXTENSION TO OCTOBER 10, 2003, FOR R-91-371 FOR 3.30 ACRES OF THE 8.74-ACRE PROPERTY LOCATED APPROXIMATELY 170 FEET SOUTH OF THE SUMMIT BOULEVARD AND CONGRESS AVENUE INTERSECTION ON THE WEST SIDE OF CONGRESS AVENUE. THE PROPERTY IS ZONED GENERAL COMMERCIAL WITH A SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR AN APPROVED PLANNED COMMERCIAL DEVELOPMENT (PCD) TO INCLUDE A FINANCIAL INSTITUTION WITH THREE DRIVE-UP TELLER WINDOWS AND AN AUTO SERVICE STATION WITH AN ACCESSORY CAR WASH FACILITY. APPROVED 5-22-2003

(CLERK'S NOTE: For a brief discussion of item 3.D.12., see item 3.D.11., page 5.)

3.D.13.

PETITION 94-92

STATUS REPORT SR 1994-92.3 FOR RESOLUTION R-95-431 FOR PETITION 94-92 (HOLY CROSS) OF LUTHERAN CHURCH OF THE HOLY CROSS, PETITIONER-PROPERTY OWNER, FOR A TIME EXTENSION TO OCTOBER 10, 2003, FOR R-95-431. THE 6.12-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.1 MILE NORTH OF FOREST HILL BOULEVARD ON THE WEST SIDE OF KIRK ROAD AND IS ZONED MULTI-FAMILY RESIDENTIAL (MEDIUM DENSITY) WITH A CLASS A CONDITIONAL USE ALLOWING A TYPE 3 CONGREGATE LIVING FACILITY (83 BEDS) AND A GENERAL DAY CARE CENTER. APPROVED 5-22-2003

3.D.14.

PETITION 95-102

STATUS REPORT SR 1995-102.3 FOR RESOLUTION R-96-385 FOR PETITION 95-102 (TLC DIVERSIFIED, INC.) OF THURSTON LAMBERTSON, PETITIONER (PROPERTY OWNER: PETER J. WYNN), FOR A TIME EXTENSION UNTIL MARCH 28, 2005, FOR R-96-385. THE 3.86-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.2 MILE WEST OF SKEES ROAD ON THE SOUTH SIDE OF BELVEDERE ROAD AND IS ZONED LIGHT INDUSTRIAL. APPROVED 5-22-2003

3.D.15.

PETITION 98-76

STATUS REPORT SR 1998-076 FOR RESOLUTION R-2000-0418 FOR PETITION 98-76 (GRAHAM REZONING) OF WILLIAM S. GRAHAM, TRUSTEE, PETITIONER (PROPERTY OWNER: PEBB ENTERPRISES UNIVERSITY), FOR A TIME EXTENSION TO MARCH 23, 2005, FOR R-2000-0418. THE 10.0-ACRE PROPERTY IS LOCATED APPROXIMATELY 1.0 MILE SOUTH OF SOUTHERN BOULEVARD AND 1,000 FEET EAST OF STATE ROAD 7 (U.S. 441) AT THE NORTHWEST CORNER OF DILLMAN ROAD AND WHIPPOORWILL WAY AND IS ZONED RESIDENTIAL TRANSITIONAL. APPROVED 5-22-2003

CONSENT AGENDA - CONTINUED

3.E. CORRECTIVE RESOLUTION

**3.E.16. RESOLUTION R-2003-0761
(AMENDS R-2003-0424)**

RESOLUTION FOR STATUS REPORT SR 86-114B TO CORRECT A RESOLUTION NUMBER IN RESOLUTION R-2003-0424 FOR PETITION 86-114(B) (SUMMIT CHRISTIAN SCHOOL). ADOPTED WITH CONDITIONS 5-22-2003

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

3.F.17.

a. DOCUMENT R-2003-0762

CONTRACT WITH TLH CHURCH FOR THE SALE AND PURCHASE OF THREE TRANSFER OF DEVELOPMENT RIGHTS (TDR) UNITS FROM THE PALM BEACH COUNTY TDR BANK AT A PURCHASE PRICE OF \$13,308 PER UNIT FOR A TOTAL PRICE OF \$39,924. (PETITION PDD/TDR95-118[B] [LANTANA ROAD PLANNED UNIT DEVELOPMENT, A 39.0-ACRE PROPERTY LOCATED APPROXIMATELY 0.5 MILE EAST OF STATE ROAD 7 (U.S. 441) ON THE SOUTH SIDE OF LANTANA ROAD].) APPROVED 5-22-2003

b. DOCUMENT R-2003-0763

ESCROW AGREEMENT WITH TLH CHURCH FOR THE SALE AND PURCHASE OF THREE TRANSFER OF DEVELOPMENT RIGHTS (TDR) UNITS FROM THE PALM BEACH COUNTY TDR BANK AT A PURCHASE PRICE OF \$13,308 PER UNIT FOR A TOTAL PRICE OF \$39,924. (PETITION PDD/TDR95-118[B] [LANTANA ROAD PLANNED UNIT DEVELOPMENT, A 39.0-ACRE PROPERTY LOCATED APPROXIMATELY 0.5 MILE EAST OF STATE ROAD 7 (U.S. 441) ON THE SOUTH SIDE OF LANTANA ROAD].) APPROVED 5-22-2003

3.F.18. DOCUMENT R-2003-0764

DEED CONVEYING THREE TRANSFER OF DEVELOPMENT RIGHTS (TDR) UNITS TO TLH CHURCH WITH LANTANA ROAD PLANNED UNIT DEVELOPMENT AS THE RECEIVING AREA FOR THOSE UNITS. (PETITION PDD/TDR95-118[B] [LANTANA ROAD PLANNED UNIT DEVELOPMENT, A 39.0-ACRE PROPERTY LOCATED APPROXIMATELY 0.5 MILE EAST OF STATE ROAD 7 (U.S. 441) ON THE SOUTH SIDE OF LANTANA ROAD].) APPROVED 5-22-2003

(CLERK'S NOTE: The motion to approve the consent agenda, with the modifications on the amendments to the agenda sheet and with the exception of the revised action taken on item 3.D.11., was made at this time. See page 4.)

4. REGULAR AGENDA

4.A. ITEMS PULLED FROM CONSENT AGENDA - None

REGULAR AGENDA - CONTINUED

4.B. PREVIOUSLY POSTPONED STATUS REPORT

4.B.19. PETITION 2000-090

RESOLUTION FOR STATUS REPORT CR 2000-090/E1 FOR RESOLUTION R-2001-0819 FOR PETITION 2000-090 (SKY DIVE AMERICA) OF KAREN PADYJASEK, PETITIONER (PROPERTY OWNER: KAREN PADYJASEK AND DIANNE D. CARTER) TO REVOKE R-2001-0819. THE 5.58-ACRE PROPERTY IS LOCATED ON THE NORTH SIDE OF THE PALM BEACH COUNTY GLADES AIRPORT (PAHOKEE) AND IS ZONED MULTI-FAMILY RESIDENTIAL (HIGH DENSITY) WITH A CLASS A CONDITIONAL USE ALLOWING A MOTION PICTURE PRODUCTION STUDIO, AN OUTDOOR ENTERTAINMENT USE, A BOARDING AND ROOMING HOUSE, AND A CAMPGROUND. APPROVED TIME EXTENSION TO SEPTEMBER 25, 2003 -- 5-22-2003

Principal Planner Monroe informed the board that since the status report was prepared three weeks earlier, a bank had taken back title to the property.

(CLERK'S NOTE: Disclosure was requested on all items heard to this point. The only ex parte communication had been on item 2.A.2. by Commissioner Newell; see pages 3, 4, and 12.)

Don Mathis, consultant for Advantage Bank in the Village of North Palm Beach, made the following remarks:

- The bank had loaned money to Sky Dive America and in the last three weeks, had taken title to the property as well as its airplane.
- County staff and the Palm Beach County Film and Television Commission and a few other groups had tried diligently to help Sky Dive America.
- Bank personnel had discussed the property with several persons in county planning and zoning and had visited the property with code enforcement personnel. Several code requirements have not been met. Landscape workers have cleaned up the property.
- Sky Dive America had not done much on the property besides constructing some buildings without building permits. The bank locked up the buildings and secured the property. It was financially expedient to destroy a couple of the buildings rather than try to bring them into compliance. A deck was built over the setback area into the Pahokee Airport property. The bank would work with airport personnel on that. It could be corrected by removing the offending portion of the deck.
- The bank was talking with a number of sky dive businesses throughout the country, all of which are interested in the property. One of the companies had previously done some filming in the area, which is supposedly a world-class location for such an endeavor, especially in the winter months.
- The bank had a number of things to do and to correct on the property, including addressing the abandonment process in order to get a site plan approved.
- Another property is contiguous with the property, the only access to which is through the subject parcel. The bank had an agreement with the other property's owners to work with them to try to resolve the situation.

REGULAR AGENDA - CONTINUED

4.B.19. - CONTINUED

- The bank's objective with the property was to provide a business that would work very well at the Pahokee Airport and bring jobs to the Glades.
- The bank requested a 120-day time extension in order to bring the property into compliance with all regulations and to move it forward.

Commissioner Marcus asked Planning, Zoning and Building Executive Director Barbara Alterman whether she objected to the 120-day time extension. Ms. Alterman replied that staff agreed to the extension.

MOTION to approve a time extension for 120 days (September 25, 2003). Motion by Commissioner Koons, seconded by Commissioner Aaronson, and carried 5-0. Commissioners McCarty and Masilotti absent.

4.C. PREVIOUSLY POSTPONED ZONING PETITIONS

4.C.20. See page 3.

5. DIRECTOR COMMENTS

5.A. ZONING DIRECTOR

5.A.21.

UPDATE ON PALM MEADOWS THOROUGHBRED TRAINING CENTER, OWNED BY MAGNA ENTERTAINMENT CORPORATION AND LOCATED ON 304.63 ACRES APPROXIMATELY 0.75 MILE NORTH OF BOYNTON BEACH BOULEVARD ON THE EAST SIDE OF LYONS ROAD. DISCUSSED WITH STAFF DIRECTION 5-22-2003

Douglas Donn, chair of Gulfstream Park, a racing association owned by Magna Entertainment Corporation, gave a presentation on Magna Entertainment's Palm Meadows Thoroughbred Training Center, including overhead graphics, a video clip showing Funny Cide (who trained at Palm Meadows) winning the 2003 Kentucky Derby, and a movie trailer for Dreamworks' forthcoming film *Seabiscuit*. He distributed handouts on the facility and on Funny Cide and later gave a copy of Laura Hillenbrand's book *Seabiscuit: An American Legend* to each of the commissioners.

Commissioner Newell remarked that he had asked Mr. Donn to update the board on the training facility in view of the earlier concerns of staff, board, and residents.

Commissioners Newell and Aaronson discussed with Mr. Donn the triple crown possibilities of Funny Cide who went on to win the Preakness after winning the Kentucky Derby.

Commissioner Aaronson disclosed he was continuing to hear--and to refute--rumors of a future racetrack with stands and pari-mutuel betting at Palm Meadows. He assured people, he said, that the county commission did not allow it and Magna did not intend it.

DIRECTOR COMMENTS - CONTINUED

5.A.21. - CONTINUED

Mr. Donn responded that in order for Palm Meadows to be such a racetrack, Magna would have to initiate the procedure to get a law passed to permit it and to get an amendment to the county land use plan as well as a zoning change. To his knowledge, he said, there had been no action by his company to initiate any of those activities.

Commissioner Marcus stated that Magna had assured the board it had no intention, ever, of turning the facility into an operating racetrack and that the board had granted approval to the facility based on that assurance. She said the racetrack possibility was mentioned in one of the handouts just distributed.

Mr. Donn replied that the reference was a repeated rumor, not an official Magna statement.

Commissioner Aaronson said that neighbors had come to love the training facility but would not love an operating track with pari-mutuel betting.

PUBLIC COMMENT:

Linda Wirtz, representing Business Development Board of Palm Beach County, praised the Palm Meadows training facility and thanked the board for their cooperation in making it happen.

Commissioner Marcus asked Planning, Zoning and Building Executive Director Alterman or another member of staff to put to rest the issue by preparing a memorandum for the board reiterating the conditions attendant to the facility's approval together with any deed restrictions, and the representations made to the board by Magna's attorney that there was no intention of ever having an operating racetrack or pari-mutuel betting at that location. People will feel more comfortable, she said, when they do not have to worry about this.

Commissioner Newell thanked Mr. Donn, attorney James Brindell, and their staffs for coming in response to his request. Magna was always open to any staff member or county commissioner who wished to visit, he said, and had held different coffees with area residents. He asked that Magna continue to hold kaffeeklatsches with the neighbors and to open up to them as much as possible.

Commissioner Aaronson raised the possibility of allowing underprivileged children to tour the facility. Mr. Donn responded that the company would be more than happy to provide such tours.

Commissioner Marcus commented that the largest high school in Palm Beach County was underway in western Boynton Beach and would provide vocational training. She suggested that Magna tie up with the school administration to provide training at the school and to hire students during the term at the high school. Mr. Donn responded that the company planned on doing that.

Mr. Donn said Magna intended to be in the county for a long time and wanted to be involved in the community in ways like those suggested by the commissioners. He invited the commissioners to continue to send suggestions to him.

DIRECTOR COMMENTS - CONTINUED

5.A.21. - CONTINUED

Commissioner Aaronson said he was deeply involved with a Special Olympics program in the Parks and Recreation Department and proposed working with staff to bring people of special need in buses out to visit the facility. Mr. Donn welcomed the proposal.

Zoning Director Whiteford remarked that the project was approved by the Development Review Committee (DRC), not the Board of County Commissioners. Its conditions were imposed by the DRC, he said, and could be readdressed by the DRC. The facility grounds were not intended to be open to the public with the exception of certain tours.

Commissioner Marcus said that the training center looked like a great facility and thanked Mr. Donn for the presentation.

No backup provided.

5.B. PLANNING DIRECTOR - None

6. COMMISSIONER COMMENTS - None

7. ADJOURNMENT

The chair declared the meeting adjourned at 10:28 a.m.

ATTESTED:

APPROVED:

Clerk

Chair