

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 December 9, 2002, 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
Vice-Chair Tony Masilotti
Commissioner Burt Aaronson
Commissioner Addie L. Greene
Commissioner Jeff Koons
Commissioner Mary McCarty - Arrived later
Commissioner Warren H. Newell - Absent
Assistant County Attorney Robert P. Banks
Deputy Clerk Joan Haverly

1.B.1. INVOCATION - Commissioner Masilotti

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 December 9, 2002, 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 12-9-2002

MOTION to receive and file proofs of publication 6657076, 6694769, and 6715417. Motion by Commissioner Masilotti, seconded by Commissioner Aaronson, and carried 5-0. Commissioners McCarty and Newell absent.

(CLERK'S NOTE: The following proofs of publication were approved for receipt and file in earlier meetings: 6429272 and 6485101 [8-22-2002] and 6595146 and 6656316 [10-24-2002]. These public hearings were continued to today's meeting.)

1.E. SWEARING-IN BY ASSISTANT COUNTY ATTORNEY

1.F. ADOPTION OF AGENDA

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

1.F.1. AMENDMENTS TO AGENDA

<u>Page</u>	<u>Item</u>	<u>Petition/Change</u>
4	3.B.7.	Petition DOA77-48(E) - Western Plaza (Home Depot): Amend conditions.
5	3.D.9.	Petition NPN-13(A) - Coral Lakes PUD: Amend motion to revise the extension date.
7	4.B.15.	Petition PDD/DOA97-104(C) - The Oaks at Boca Raton, aka Fox Hill Estates PUD and Rainbow PUD: Amend conditions and add a third motion.
7	4.C.16.	Petition DOA76-7(E) - Okeechobee Boulevard MUPD: Amend conditions.
8	4.C.17.	Petition PDD2002-015 - Excelsior Parc II, aka Tivoli PUD: Amend conditions.

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

2. **POSTPONEMENTS AND WITHDRAWALS** - See page 3.
3. **CONSENT AGENDA** - See pages 4-6.
4. **REGULAR AGENDA** - See pages 6-16.
5. **DIRECTOR COMMENTS** - See pages 16-17.
6. **COMMISSIONER COMMENTS** - None
7. **ADJOURNMENT** - See page 17.

2. POSTPONEMENTS AND WITHDRAWALS

2.A. POSTPONEMENTS

2.A.1. PETITION 2001-066

POSTPONEMENT TO JANUARY 9, 2003, OF PETITION PDD/TDR2001-066(A) (PALOMINO PLACE PUD) OF JAMES SHILLINGLAW, FRANCESKA MALCK, AND RAJA MALEK, BY PRESS TOMPKINS, JR., AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM AGRICULTURAL RESIDENTIAL TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD) AND TO ALLOW A TRANSFER OF DEVELOPMENT RIGHTS FOR 22 UNITS AND TO DESIGNATE THIS PETITION AS THE RECEIVING AREA. THE 39.3-ACRE PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF PALOMINO PLACE AND STATE ROAD 7 (U.S. 441). (P.O.P. 6595146 AND 6656316 [10-24-2002]) APPROVED 12-9-2002

No backup provided.

2.A.2. PETITION 2002-020

POSTPONEMENT TO JANUARY 9, 2003, OF PETITION PDD2002-020 (BERNARD HAAS PUD) OF GEORGE HAAS AND DOROTHY HAAS, BY ROBERT A. BENTZ, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM AGRICULTURAL RESIDENTIAL TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD). THE 47.96-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.25 MILE SOUTH OF LAKE WORTH ROAD ON THE EAST SIDE OF LYONS ROAD. (P.O.P. 6657076 AND 6694769) POSTPONED TO JANUARY 9, 2003, BY ZONING COMMISSION; NO BCC MOTION REQUIRED -- 12-9-2002

No backup provided.

2.A.3. PETITION 2001-017

POSTPONEMENT TO JANUARY 9, 2003, OF 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. THE 1.0-ACRE PROPERTY IS LOCATED AT THE SOUTHWEST CORNER OF 10TH AVENUE NORTH AND BOUTWELL ROAD. (P.O.P. 6715417) POSTPONED BY RIGHT; NO BCC MOTION REQUIRED -- 12-9-2002

PUBLIC COMMENT: None

MOTION to POSTPONE item 2.A.1. to January 9, 2003. Motion by Commissioner Masilotti, seconded by Commissioner Koons, and carried 6-0. Commissioner Newell absent.

2.B. WITHDRAWALS - None

3. CONSENT AGENDA

PUBLIC COMMENT: None

MOTION to approve the consent agenda as amended and adopt resolutions affirming the applicable actions. Motion by Commissioner Koons, seconded by Commissioner Greene, and carried 6-0. Commissioner Newell absent.

3.A. REQUESTS TO PULL ITEMS FROM CONSENT

Commissioner Masilotti pulled item 3.B.7.; see pages 6-8; and Commissioner Marcus pulled item 3.C.8.; see pages 8-9.

3.B. ZONING PETITIONS

**3.B.4. RESOLUTION R-2002-2196
(AMENDS R-98-1297 [PETITION 79-148]
AND REVOKES R-85-333 AND R-92-1658 [PETITION 84-187]
AND R-79-1098 AND R-95-1431 [PETITION 79-148])**

RESOLUTION FOR PETITION DOA79-148(C) (PALM BEACH ACURA) OF THE CRAIG COLLECTION INC., BY KIERAN J. KILDAY, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT TO MODIFY/DELETE CONDITIONS OF APPROVAL, ADD SQUARE FOOTAGE, RECONFIGURE THE SITE PLAN, AND ALLOW AN AUTOMOTIVE PAINT AND BODY FACILITY AS A REQUESTED USE. THE 10.44-ACRE PROPERTY IS LOCATED APPROXIMATELY 500 FEET WEST OF JOG ROAD ON THE SOUTH SIDE OF OKEECHOBEE BOULEVARD. (P.O.P. 6657076 AND 6694769) ADOPTED WITH CONDITIONS AS AMENDED 12-9-2002

Engineering Assistant Jim Choban added a temporary construction easement condition, which he said had been discussed with the petitioner.

**3.B.5. RESOLUTION R-2002-2197
(AMENDS R-83-1000, R-83-1001, R-86-744, AND R-86-745)**

RESOLUTION FOR PETITION DOA83-78(B) (WEST BOCA PRESBYTERIAN CHURCH) OF WEST BOCA PRESBYTERIAN CHURCH, BY JILL LANIGAN, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT TO RECONFIGURE THE SITE PLAN, ADD SQUARE FOOTAGE, AND MODIFY/DELETE CONDITIONS OF APPROVAL. THE 6.08-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.25 MILE SOUTH OF PALMETTO PARK ROAD ON THE EAST SIDE OF HAMMOCK STREET. (P.O.P. 6657076 AND 6694769) ADOPTED WITH CONDITIONS 12-9-2002

3.B.6.

a. RESOLUTION R-2002-2198

RESOLUTION FOR PETITION Z2002-024 (BOYNTON BEACH COMMUNITY CHURCH) OF BOYNTON BEACH COMMUNITY CHURCH, BY KEVIN MCGINLEY, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM AGRICULTURAL RESIDENTIAL TO RESIDENTIAL TRANSITIONAL SUBURBAN. THE 4.98-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.8 MILE SOUTH OF HYPOLUXO ROAD ON THE WEST SIDE OF MILITARY TRAIL. (P.O.P. 6657076 AND 6694769) ADOPTED 12-9-2002

CONSENT AGENDA - CONTINUED

3.B.6. - CONTINUED

b.

RESOLUTION R-2002-2199

RESOLUTION FOR PETITION CA2002-024 (BOYNTON BEACH COMMUNITY CHURCH) OF BOYNTON BEACH COMMUNITY CHURCH, BY KEVIN MCGINLEY, AGENT, FOR A CLASS A CONDITIONAL USE TO ALLOW A CHURCH OR PLACE OF WORSHIP AND A GENERAL DAYCARE. THE 4.98-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.8 MILE SOUTH OF HYPOLUXO ROAD ON THE WEST SIDE OF MILITARY TRAIL. (P.O.P. 6657076 AND 6694769) ADOPTED WITH CONDITIONS AS AMENDED 12-9-2002

3.B.7. See pages 6-8.

3.C. PREVIOUSLY POSTPONED STATUS REPORT

3.C.8. See pages 8-9.

3.D. STATUS REPORTS

3.D.9. PETITION NPN-13

STATUS REPORT SR NPN-13 FOR RESOLUTIONS R-98-1108 AND R-98-1109 OF PETITION NPN-13(A) (CORAL LAKES PUD) OF ORIOLE HOMES, PETITIONER (PROPERTY OWNER: VIA PALMA DELRAY, INC.), TO APPROVE A TIME EXTENSION UNTIL MAY 10, 2003, FOR BOTH RESOLUTIONS. THE 34.18-ACRE PROPERTY IS LOCATED AT THE NORTHEAST CORNER OF FLAVOR PICT ROAD AND THE LAKE WORTH DRAINAGE DISTRICT E-3 CANAL AND IS ZONED PLANNED UNIT DEVELOPMENT (PUD). APPROVED 12-9-2002

The extension date was revised on the amendments to the agenda sheet.

3.D.10. PETITION 83-120

STATUS REPORT SR 1983-120A.4 FOR RESOLUTION R-94-1308 OF PETITION 83-120(A) (MERCEDE CENTER) OF RICHARD MERCEDE, PETITIONER (PROPERTY OWNER: SUN ENTERPRISES HOLDING, INC.), TO APPROVE A TIME EXTENSION UNTIL MAY 10, 2003, FOR R-94-1308. THE 1.02-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.1 MILE NORTH OF THE BROWARD COUNTY LINE ON THE WEST SIDE OF STATE ROAD 7 (U.S. 441) AND IS ZONED GENERAL COMMERCIAL WITH A DEVELOPMENT ORDER AMENDMENT TO INCREASE SQUARE FOOTAGE AND A CLASS A CONDITIONAL USE ALLOWING AN AUTOMOTIVE PAINT AND BODY SHOP AND VEHICLE SALES AND RENTALS. APPROVED 12-9-2002

3.D.11. PETITION 93-30

STATUS REPORT SR 1993-30.4 FOR RESOLUTION R-93-1200 OF PETITION 93-30 (HIGGINS SUBDIVISION) OF JIM HIGGINS AND ELSIE HIGGINS, PETITIONER (PROPERTY OWNER: LORI PODRAY), TO APPROVE A TIME EXTENSION UNTIL MAY 10, 2003, FOR R-93-1200. THE 4.7-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.8 MILE EAST OF JOG ROAD ON THE SOUTH SIDE OF MELALEUCA LANE AND IS ZONED RESIDENTIAL TRANSITIONAL. APPROVED 12-9-2002

CONSENT AGENDA - CONTINUED

3.D.12.

PETITION 96-41

STATUS REPORT SR 96-41.3 FOR RESOLUTION R96-1357 OF PETITION 96-41 (PALM BEACH REZONING) OF TOWN OF PALM BEACH, PETITIONER-PROPERTY OWNER, TO EXEMPT R-96-1357 FROM UNIFIED LAND DEVELOPMENT CODE SECTION 5.8 REVIEW. THE 14.85-ACRE PROPERTY IS LOCATED APPROXIMATELY 0.25 MILE SOUTH OF BELVEDERE ROAD ON THE EAST SIDE OF PIKE ROAD AND IS ZONED LIGHT INDUSTRIAL. APPROVED 12-9-2002

3.D.13.

**RESOLUTION R-2002-2200
(AMENDS R-97-958)**

RESOLUTION FOR STATUS REPORT SR 1985-084C FOR RESOLUTION R-97-958 OF PETITION 85-84(C) (BEREAN BAPTIST TEMPLE) OF BEREAN BAPTIST CHURCH OF WEST PALM BEACH, PETITIONER-PROPERTY OWNER, TO AMEND CONDITIONS OF APPROVAL (TRAFFIC PERFORMANCE STANDARDS AND ARCHITECTURAL GUIDELINES). 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. ADOPTED WITH CONDITIONS 12-9-2002

3.E. ABANDONMENT RESOLUTION

3.E.14.

**RESOLUTION R-2002-2201
(REVOKES R-79-1237)**

RESOLUTION FOR PETITION ABN 79-165 OF WANDA K. MERRECK TO ABANDON A SPECIAL EXCEPTION TO ALLOW THE PARKING OF ONE MOBILE HOME AS A TEMPORARY RESIDENCE ON THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 45, RANGE 41 EAST. THE PROPERTY IS LOCATED 0.5 MILE EAST OF UNIVERSITY EXPRESSWAY (PRATT-WHITNEY ROAD) AND APPROXIMATELY 1.0 MILE WEST OF STATE ROAD 7 (U.S. 441) IN AN AGRICULTURAL DISTRICT. ADOPTED 12-9-2002

4. REGULAR AGENDA

4.A. ITEMS PULLED FROM CONSENT

3.B.7.

PETITION 77-48

RESOLUTION FOR PETITION DOA77-48(E) (WESTERN PLAZA [HOME DEPOT]) OF WAL-MART STORES, BY KEVIN WORKMAN, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT TO MODIFY THE SITE PLAN AND BUILDING SQUARE FOOTAGE. THE 27.36-ACRE PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF STATE ROAD 7 (U.S. 441) AND SOUTHERN BOULEVARD. (P.O.P. 6657076 AND 6694769) AMENDED CONDITIONS AND CONTINUED TO JANUARY 9, 2003 -- 12-9-2002

The conditions were revised on the amendments to the agenda sheet.

In her presentation, Sara Lockhart, agent, explained that the request was to replace the vacant Wal-Mart store with a relocated Home Depot store. The existing Home Depot would be renovated for retail uses.

REGULAR AGENDA (ITEMS PULLED FROM CONSENT) - CONTINUED

3.B.7. - CONTINUED

Commissioner Masilotti made the following comments:

- Western Plaza was the worst-maintained shopping center and the worst neighbor in the western communities from State Road 7 to Belle Glade.
- The request showed a net increase in square footage although he had been told by the petitioner a month earlier that there would be no increase.

Zoning Director William C. Whiteford addressed the discrepancy by explaining that in 1977, when the shopping center was approved, its outdoor garden center was not considered square footage. Today, however, it is.

Commissioner Masilotti pointed out that the backup indicated an increase in total building area square footage with a 5 percent increase in floor area ratio. He proposed that the petitioner stay at the original square footage by eliminating the additional 8,521 square feet.

- Parking spaces were being eliminated despite existing parking being inadequate to meet current needs. Trees in the median had been uprooted to enable for-rent trailers to be parked there.

Mr. Whiteford explained that the eliminated parking spaces had been excess parking in the rear of the building, which came about from a former code regulation that required 20 percent of the parking to be on the side or the rear.

Commissioner Masilotti reiterated that there was not enough parking.

Mr. Whiteford responded that as much parking as possible had been provided in the reconfiguration of the property. Ms. Lockhart added that the garden center parking was now factored in, which it had not been in years past.

- The condition specifying that “No idling of engines shall be permitted between 8:00 p.m. and 7:00 a.m. daily” should be changed to “No deliveries shall be permitted between 8:00 p.m. and 7:00 a.m. daily.”

Commissioner Marcus directed staff to make the change and to delete any reference to “idling of engines.”

Commissioner Masilotti recommended a postponement in order to resolve outstanding problems.

Kevin Workman, architect, said that Home Depot’s contract with Wal-Mart would expire the beginning of January 2003.

MOTION to POSTPONE the item 30 days (January 9, 2003). Motion by Commissioner Masilotti and seconded by Commissioner McCarty.

REGULAR AGENDA (ITEMS PULLED FROM CONSENT) - CONTINUED

3.B.7. - CONTINUED

Commissioner McCarty was informed that the wall sign would be backlit and asked that this be reflected in the conditions. In response to Commissioner McCarty's questioning, Zoning Director Whiteford offered to apply the same rooftop equipment screening standards as had been applied to Costco.

PUBLIC COMMENT:

Ron Masur, president of Westwood Property Owners Association, supported the project and recommended that it be moved forward.

UPON CALL FOR A VOTE, the motion carried 6-0. Commissioner Newell absent.

3.C.8.

RESOLUTION R-2002-2202 (AMENDS R-97-964)

STATUS REPORT 1996-087.2 FOR RESOLUTION R-97-964 OF PETITION 96-87 (ABBEY PARK COMMERCIAL) OF NEW PINE GLEN, PETITIONER (PROPERTY OWNER: AURORA INVESTMENTS IV, INC.), TO APPROVE THE NOTIFICATION OF THE PROPERTY OWNER OF THE SECOND PUBLIC HEARING ON JANUARY 9, 2003, AT WHICH TIME THE STAFF RECOMMENDATION WILL CONTINUE TO BE THE REZONING FROM MULTIPLE USE PLANNED DEVELOPMENT (MUPD), WITH A SELF-SERVICE STORAGE FACILITY AND TRUCK RENTAL AS REQUESTED USES, TO MULTIFAMILY RESIDENTIAL (MEDIUM DENSITY) (RM). THE 11.39-ACRE PROPERTY IS LOCATED AT THE SOUTHWEST CORNER OF FOREST HILL BOULEVARD AND HAVERHILL ROAD. APPROVED TIME EXTENSION TO DECEMBER 9, 2003, TO COMMENCE DEVELOPMENT AND ADOPTED RESOLUTION IN ORDER TO AMEND CONDITIONS OF APPROVAL -- 2-9-2002

Principal Planner Linda Monroe stated that staff had reviewed the project at the end of the preceding week and now offered an alternative proposal to that in the agenda. The existing staff recommendation was a rezoning from MUPD to RM because the project did not meet traffic performance standards and nothing in the five-year road program could correct the problem. Not changing the zoning, however, would actually result in less traffic because the Comprehensive Plan has a limitation of mini-warehouse storage that is a low-traffic generator. Accordingly, staff now recommended revocation of existing concurrency and leaving the zoning unchanged. It would allow them, if they could find a way to fix the traffic problems, to keep the low-traffic generator. Staff also recommended a two-year time extension on the zoning. This would give the board the ability in the future, if the county changed any requirements for the petitioner's kind of development order, to add, delete, or amend conditions.

Commissioner Koons supported staff's alternative recommendation followed by a CRALLS (constrained roadway at a lower level of service) on a section of Haverhill Road.

Robert A. Bentz, agent, supported leaving the zoning unchanged, did not support revoking the concurrency, and favored a one-year's time extension.

Ms. Monroe offered the following condition with input from County Engineer George T. Webb:

REGULAR AGENDA (ITEMS PULLED FROM CONSENT) - CONTINUED

3.C.8. - CONTINUED

No building permits shall be issued until a contract is let for the construction of Haverhill Road north and south of Cresthaven Boulevard from a three-lane section to a five-lane section or a CRALLS designation has been adopted for that section of road.

Mr. Bentz agreed to the proposed condition.

Commissioner Marcus supported a one-year's extension.

PUBLIC COMMENT: None

MOTION to approve a one-year time extension from December 9, 2002, in which to commence development and to adopt a resolution to amend conditions of approval. Motion by Commissioner Masilotti, seconded by Commissioner Koons, and carried 6-0. Commissioner Newell absent.

4.B. PREVIOUSLY POSTPONED ZONING PETITIONS

4.B.15.

a. RESOLUTION R-2002-2203

RESOLUTION FOR PETITION PDD97-104(C) (THE OAKS AT BOCA RATON, AKA RAINBOW PUD AND AS FOX HILL ESTATES PUD) OF THE OAKS AT BOCA RATON, BY KIERAN J. KILDAY, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM AGRICULTURAL RESERVE TO AGRICULTURAL RESERVE PLANNED UNIT DEVELOPMENT (PUD) ON 302.94 ACRES LOCATED BETWEEN RAINBOW PUD, ON THE EAST SIDE OF STATE ROAD 7 (U.S. 441), AND LYONS ROAD. (P.O.P. 6429272 AND 6485101 [8-22-02]) ADOPTED, SUBJECT TO CONDITIONS CONTAINED IN RESOLUTION R-2002-2204 -- 12-9-2002

b. RESOLUTION R-2002-2204

RESOLUTION FOR PETITION DOA97-104(C) (THE OAKS AT BOCA RATON, AKA RAINBOW PUD AND AS FOX HILL ESTATES PUD) OF THE OAKS AT BOCA RATON, BY KIERAN J. KILDAY, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT TO RECONFIGURE THE SITE PLAN AND ADD LAND AREA (302.94 ACRES) AND UNITS. THE PROPERTY--410.29 ACRES, EXISTING; 713.23 ACRES, PROPOSED--IS LOCATED ON THE EAST SIDE OF STATE ROAD 7 (U.S. 441). (P.O.P. 6429272 AND 6485101 [8-22-02]) ADOPTED WITH CONDITIONS 12-9-2002

c. RESOLUTION R-2002-2205

RESOLUTION FOR PETITION PDD97-104(C) (THE OAKS AT BOCA RATON, AKA RAINBOW PUD AND AS FOX HILL ESTATES PUD [BLEDNER AND WALKER PARCELS]) OF THE OAKS AT BOCA RATON, BY KIERAN J. KILDAY, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM AGRICULTURAL RESERVE TO AGRICULTURAL RESERVE PLANNED UNIT DEVELOPMENT (PUD) ON 302.94 ACRES LOCATED BETWEEN RAINBOW PUD, ON THE EAST SIDE OF STATE ROAD 7 (U.S. 441), AND LYONS ROAD. (P.O.P. 6429272 AND 6485101 [8-22-02]) ADOPTED, SUBJECT TO CONDITIONS CONTAINED IN RESOLUTION R-2002-2204 -- 12-9-2002

REGULAR AGENDA - CONTINUED

4.B.15. - CONTINUED

Principal Site Planner Maryann Kwok brought out the following in the staff presentation:

- The petitioner requested deletion of conditions L.12. and L.13., which require interconnectivity between the PUD and the adjacent northern parcels. Staff recommended retaining the conditions.
- Staff recommended new condition E.14. (backup, page 154), which requires construction of an offsite road from Lyons Road west to the western terminus of the proposed interconnected road. The petitioner objected to the condition.
- Property and Real Estate Management (PREM) formerly preferred that the 2.3-acre civic site be reserved for public civic uses. That position had now changed to one of favoring petitioner cash-out as reflected in condition M.5. on the amendments to the agenda sheet.

The amendments to the agenda sheet also contained a condition modification and a third motion.

Kieran J. Kilday, agent, gave the petitioner's presentation, including an argument against interconnectivity to the north, and distributed an aerial photograph showing the status of the project.

(CLERK'S NOTE: The document was not provided to the clerk.)

Rob Rennenbaum, project traffic engineer, gave a brief presentation.

Commissioner Aaronson stated that no purpose would be served by requiring interconnectivity to the northern parcels and supported the civic site cash-out.

Commissioner Marcus said she would like to support the project but preferred to show consistency regarding interconnectivity.

Land Development Director Kenneth S. Rogers said that at the last meeting, the board had discussed the possibility of a collector road between Lyons Road and State Road 7. He said that if such a road would be placed there, staff recommended that it be located about one mile north of Clint Moore Road. Staff estimated 3,500 to 3,800 trips a day could be generated if the properties north and south of the collector road would access onto it. Staff would bring this issue back in a more formal manner, he said, if the board desired. Later in the meeting (see page 11), consensus was given to do so.

PUBLIC COMMENT: None

MOTION to adopt a resolution approving the request for a rezoning from AR to AR PUD with no interconnectivity to the north and to use the \$300,000 cash-out revenue to develop an approximate 17.0-acre site at State Road 7 and Yamato Road, south of Pinewoods Park. Motion by Commissioner Aaronson, seconded by Commissioner Masilotti, and carried 4-2. Commissioners Koons and Marcus opposed. Commissioner Newell absent.

REGULAR AGENDA - CONTINUED

4.B.15. - CONTINUED

MOTION to adopt a resolution approving the request for a development order amendment to reconfigure the site plan and add land area and units, subject to conditions [as amended in the previous motion]. Motion by Commissioner Aaronson, seconded by Commissioner Greene, and carried 4-2. Commissioners Koons and Marcus opposed. Commissioner Newell absent.

MOTION to adopt a resolution approving the request for a rezoning from AR to AR PUD for the preserve portion. Motion by Commissioner Masilotti, seconded by Commissioner Greene, and carried 6-0. Commissioner Newell absent.

(CLERK'S NOTE: The following direction was given later in the meeting; see page 17.)

Commissioner Marcus later noted that the board had "failed to give direction on the collector road between the two because they had not given previous notice" and then ascertained consensus existed to give that direction.

4.C. ZONING PETITIONS

4.C.16. PETITION 76-7

RESOLUTION FOR PETITION DOA76-7(E) (OKEECHOBEE BOULEVARD MUPD) OF PRINCIPAL PROPERTIES LLC, BY ROBERT A. BENTZ, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT TO RECONFIGURE THE MASTER PLAN, ADD SQUARE FOOTAGE, MODIFY/DELETE CONDITIONS OF APPROVAL, AND ALLOW A GENERAL REPAIR AND MAINTENANCE FACILITY AS A REQUESTED USE. THE 29.33-ACRE PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF GOLDEN LAKES BOULEVARD AND OKEECHOBEE BOULEVARD AND IS ZONED MULTIPLE USE PLANNED DEVELOPMENT (MUPD). (P.O.P. 6657076 AND 6694769) CONTINUED LATER IN MEETING -- 2-9-2002

The conditions were revised on the amendments to the agenda sheet.

Staff presentation was given by Senior Planner William Cross.

Robert A. Bentz, agent, requested the following condition modifications:

- Amend condition C.1.e. to add a maximum tower height of 37 feet 10 inches.
- Amend condition I.1.c. to correct the 7:00 a.m. to 6:00 p.m. general repair and maintenance hours for Pod D to 7:00 a.m. to 7:00 p.m.

Mr. Cross agreed to the modifications.

- Combine conditions J.7. and L.2. concerning the same landscape area.

Zoning Director Whiteford agreed to the combination.

REGULAR AGENDA - CONTINUED

4.C.16. - CONTINUED

PUBLIC COMMENT:

F. Martin Perry, agent for Greg and John Rice and Llwyd Ecclestone, addressed the board about clustered landscaping as distinguished from continuous landscaping.

John Sansbury said that the gas station site owned by him and Harold Murphy was exempt from architectural control. Mr. Whiteford responded that from the way architectural control conditions B.1. and B.2. were written, it appeared that they would apply to the gas station as well. Mr. Sansbury reiterated that the gas station was exempt as of its last appearance before the board. Commissioner Marcus commented that the gas station was exempt from an architectural standard designed specifically for the gas station and that the two conditions applied to the whole project, including the gas station.

Land Development Director Rogers proposed new condition E.28. which would require a 10-foot temporary construction easement in front of Pod D. The petitioner had agreed to the new condition, he said.

MOTION to adopt a resolution approving the request to reconfigure the master plan, add square footage, modify/delete conditions of approval as amended, and allow a general repair and maintenance facility. Motion by Commissioner Koons and seconded by Commissioner Aaronson.

Mr. Sansbury asked if the motion included a car wash.

AMENDED MOTION to include a car wash. The maker and seconder agreed.

Mr. Rogers said there had been no discussion on whether the car wash met traffic performance standards.

SECOND WITHDRAWN.

MOTION DIED FOR LACK OF A SECOND.

Commissioner Marcus recommended that the agenda be reordered and the item be discussed at the end of the meeting.

REORDER AGENDA

MOTION to reorder the agenda to consider item 4.C.16. at the end of the meeting. Motion by Commissioner Masilotti, seconded by Commissioner Koons, and carried 6-0. Commissioner Newell absent.

(CLERK'S NOTE: For continued discussion of item 4.C.16., see pages 15-16.)

REGULAR AGENDA - CONTINUED

4.C.17.

RESOLUTION R-2002-2206

RESOLUTION FOR PETITION PDD2002-015 (EXCELSIOR PARC II, AKA TIVOLI PUD) OF THE MORTON GROUP, BY ROBERT A. BENTZ, AGENT, FOR AN OFFICIAL ZONING MAP AMENDMENT FROM AGRICULTURAL RESIDENTIAL TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD). THE 118.05-ACRE PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF BOYNTON BEACH BOULEVARD AND APPROXIMATELY 0.5 MILE EAST OF HAGEN RANCH ROAD. (P.O.P. 6657076 AND 6694769) ADOPTED WITH CONDITIONS AS AMENDED 12-9-2002

The conditions were revised on the amendments to the agenda sheet.

Principal Site Planner Kwok gave the staff presentation. She said that in the time from project certification to publication of the staff report, the petitioner had submitted three site plans as follows:

- Option 1. The site plan certified by the Development Review Committee and presented to the Zoning Commission showed a total of eight culs-de-sac.

Staff has indicated that the southwest portion of the site needs to be redesigned to reduce the number of dead-end streets. The internal roads should be connected to provide additional internal connectivity and connect the site to the adjacent parcel to the west. The petitioner should add traffic-calming components.

- Option 2. This revised plan, which was presented at the Zoning Commission hearing, incorporated some staff recommendations but did not reduce the number of culs-de-sac.

The Zoning Commission preferred Option 1 and recommended deletion of four lots that abut the spine road. Staff, on the other hand, preferred Option 2 to Option 1.

- Option 3. Following the Zoning Commission hearing, the petitioner submitted a revised plan, which showed a reduced number of units from 354 to 324. The plan did not take into account the recommendations of both Zoning Commission and staff. The four lots were not deleted.

Ms. Kwok said that staff had determined there were merits in each of the plans and favored combining them in another option as follows:

- Option 4. In this plan, there are changes on the northeast and southwest portions of the site. There are more open spaces, easier access to the lake area, and the four lots abutting the spine road are converted to green space.

Ms. Kwok said the petitioner wished to amend PUD design conditions F.3. and F.4. and to cash out the 2.3-acre civic site. Property and Real Estate Management (PREM) preferred the civic site to serve public civic uses. The Coalition of West Boynton Residential Associations (COWBRA) indicated in a letter to staff its support of the cash-out.

REGULAR AGENDA - CONTINUED

4.C.17. - CONTINUED

PREM Director Ross Hering said the county had no need to develop on this site in the foreseeable future and that the board would be justified in supporting the cash-out if they thought adequate civic land was being made available in the area.

Joe Lelonek, agent, made the following requests in his presentation:

- Approval of option 3.
- Approval of the public civic site as a private recreation area.

Engineering Assistant Choban said if this request were approved, staff would need to delete condition E.1., revise phasing conditions, and delete the surety requirement condition for Boynton Beach Boulevard.

- Deletion of condition F.3.a.
- Deletion of condition F.4.
- Deletion of conditions G.7. and G.8.
- Addition of condition D.1.g. requiring a three-foot berm and a six-foot-high vinyl-coated chain link fence with hedge along Tara Estates.
- Addition of condition E.7. restricting construction access from 102nd Place South.

PUBLIC COMMENT:

Sandra Greenberg, vice-president of COWBRA, supported option 3 and the incorporation of the civic site in the community's recreation parcel.

Dagmar Brahs spoke in support of the petition.

Commissioner Masilotti said he wanted 25-foot setbacks and flexibility on lot coverage.

Commissioner Aaronson supported option 3 and asked if civic site cash-out proceeds could be used to make fire station improvements. Assistant County Attorney Banks said the proceeds question could be looked at in future but did not recommend it as part of the motion today.

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

Upon request by the chair, Zoning Director Whiteford clarified the amended conditions as follows:

- Deletion of the civic site condition allowing the cash-out.

REGULAR AGENDA - CONTINUED

4.C.17. - CONTINUED

- Deletion of the cross-access to the west.
- Deletion of the staff's modifications to the plan because option 3 was being approved.
- Modification of condition F.4. to allow flexible regulations for lot coverage but not for the front setbacks.
- Modification of the engineering phasing conditions.
- Addition of a restrictive covenant regarding construction access.
- Addition of the requested berm and fence with the provision that staff may need to widen the buffer to accommodate the berm.

AMENDED MOTION to include the conditions as amended. The maker and seconder agreed.

Commissioner Aaronson acknowledged for the record that a private agreement had been entered into by the developer and Tara Estates and said that as far as the board was concerned, "Tara Estates and the street were off the books with the county."

Senior Planner Jim Bell said that since the board was approving option 3, the date in condition G.5. needed to be changed from November 7, 2002, to November 20, 2002.

Commissioner Marcus noted that by the motion, interconnectivity had been deleted from the development.

AMENDED MOTION to include the condition revision. The maker and seconder agreed. Upon call for a vote, the motion carried 4-2. Commissioners Koons and Marcus opposed. Commissioner Newell absent.

REORDERED AGENDA

(CLERK'S' NOTE: For earlier discussion of item 4.C.16., see pages 11-12.)

**4.C.16. RESOLUTION R-2002-2207
(AMENDS R-2001-1676)**

RESOLUTION FOR PETITION DOA76-7(E) (OKEECHOBEE BOULEVARD MUPD) OF PRINCIPAL PROPERTIES LLC, BY ROBERT A. BENTZ, AGENT, FOR A DEVELOPMENT ORDER AMENDMENT TO RECONFIGURE THE MASTER PLAN, ADD SQUARE FOOTAGE, MODIFY/DELETE CONDITIONS OF APPROVAL, AND ALLOW A GENERAL REPAIR AND MAINTENANCE FACILITY AS A REQUESTED USE. THE 29.33-ACRE PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF GOLDEN LAKES BOULEVARD AND OKEECHOBEE BOULEVARD AND IS ZONED MULTIPLE USE PLANNED DEVELOPMENT (MUPD). (P.O.P. 6657076 AND 6694769) ADOPTED WITH CONDITIONS AS AMENDED 12-9-2002

REGULAR AGENDA - CONTINUED

4.C.16. - CONTINUED

Land Development Director Rogers said the petition requested additional uses for which there was no capacity on Okeechobee Boulevard and were being phased to the eight-laning of the roadway from State Road 7 (U.S. 441) to Jog Road, as reflected in condition E.26. He suggested adding condition E.26.b. as follows, "An alternative phasing plan in the revision to the uses above may be approved subject to a revised traffic study to be approved by the county engineer."

MOTION to adopt a resolution approving the request for a development order amendment to reconfigure the master plan, add square footage, modify/delete conditions of approval as amended, and allow a general repair and maintenance facility. Motion by Commissioner Masilotti, seconded by Commissioner Koons, and carried 6-0. Commissioner Newell absent.

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

5. DIRECTOR COMMENTS

5.A. ZONING DIRECTOR

5.A.18.

PERMISSION TO ADVERTISE NORTHLAKE BOULEVARD CORRIDOR OVERLAY. APPROVED 12-9-2002

Zoning Director Whiteford said the zoning in progress for the Northlake Boulevard corridor overlay would expire in February 2003 and that staff needed permission to advertise the amendment.

MOTION to approve advertisement of the Northlake Boulevard corridor overlay amendment. Motion by Commissioner Masilotti, seconded by Commissioner Koons, and carried 5-0. Commissioners McCarty and Newell absent.

No backup provided.

5.B. PLANNING DIRECTOR

5.B.19.

TRANSFER OF DEVELOPMENT RIGHTS (TDR) ANNUAL REPORT. DISCUSSED WITH DIRECTION 12-9-2002

Commissioner Marcus noted there was a new TDR price formula. Commissioner Koons said he preferred to support staff's recommendation of \$10,544 instead of the Land Use Advisory Board's recommendation that the fee remain at \$10,399.

MOTION to support staff's recommendation of the higher fee. Motion by Commissioner Koons.

MOTION DIED FOR LACK OF A SECOND.

DIRECTOR COMMENTS - CONTINUED

5.B.19. - CONTINUED

Commissioner Aaronson questioned why staff recommended such a small increase. Principal Planner Susan Miller responded that staff calculated the annual increase based on the consumer price index or the previous year's rate of inflation, which has been very low.

Commissioner Masilotti contended that the calculation was not accurate. Cost of homes in the county had risen dramatically and to increase the TDR unit price by only 1.6 percent was ludicrous. A TDR was worth \$30,000, even though the county was not selling any, he said.

Commissioner Marcus directed that the item be brought back as the first item on January 9, 2003, agenda with debate on the different recommendations.

(CLERK'S NOTE: At this time, direction was given on item 4.B.15.; see page 11.)

6. COMMISSIONER COMMENTS - None

7. ADJOURNMENT

The chair declared the meeting adjourned at 12:14 p.m.

ATTESTED:

APPROVED:

Clerk

Chair