

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
No. ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes _____ No X
 Budget Account No.: Fund _____ Agency _____ Org. _____
 Object _____ Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no fiscal impact associated with this item

C. Departmental Fiscal Review: *Pat D'Agostino*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

John D. ... 9-26-07
 OFMB *m* 09/25
John J. ... 9/27/07
 Contract Dev. and Control
9/26/07

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

ORDINANCE 2007 -

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF PALM BEACH COUNTY,
5 FLORIDA ESTABLISHING A COMMUNITY
6 DEVELOPMENT DISTRICT OVER THE REAL
7 PROPERTY LEGALLY DESCRIBED ON EXHIBIT "A"
8 TO THIS ORDINANCE COMPRISING OF
9 APPROXIMATELY 86 ACRES; NAMING THE INITIAL
10 MEMBERS OF THE BOARD OF SUPERVISORS OF THE
11 DISTRICT; ESTABLISHING THE NAME OF THE
12 DISTRICT AS OSPREY OAKS COMMUNITY
13 DEVELOPMENT DISTRICT; DESIGNATING THE
14 PURPOSE OF THE DISTRICT; DESIGNATING THE
15 POWERS OF THE DISTRICT; PROVIDING FOR
16 SEVERABILITY; PROVIDING FOR REPEAL OF LAWS
17 IN CONFLICTS; AND PROVIDING AN EFFECTIVE
18 DATE.
19

20 WHEREAS, the Florida Legislature created and amended Chapter 190, Florida Statutes to
21 provide an alternative method to finance and manage basic services for community development;
22 and

23 WHEREAS, Hypoluxo/Jog, LLC, a Florida limited liability company (the "Petitioner"),
24 has petitioned Palm Beach County, Florida (the "County"), to grant the establishment of the
25 Osprey Oaks Community Development District (the "District"); and

26 WHEREAS, a public hearing has been conducted by the Board of county Commissioners
27 of Palm Beach County, Florida (the "Board"), in accordance with the requirements and procedures
28 of Section 190.005(1)(d), Florida Statutes; and

29 WHEREAS, all statements contained in the petition have been found to be true and
30 correct; and

31 WHEREAS, the creation of the District is not inconsistent with any applicable element or
32 portion of the effective Palm Beach County Comprehensive Land Use Plan, as amended; and

33 WHEREAS, the area of land within the District is of sufficient size, sufficiently compact
34 and is sufficiently contiguous to be developable as one functional interrelated community; and

35 WHEREAS, the creation of the District is the best alternative available for delivering the
36 community development services and facilities to the area that will be served by the District; and

37 WHEREAS, the District will constitute a timely, efficient, effective, responsible and
38 economic way to deliver community development services in the area; and

39 WHEREAS, the proposed services and facilities to be provided by the District will be
40 compatible with the capacity and uses of existing local and regional community development
41 services and facilities; and

1 WHEREAS, the area that will be served by the District is amenable to separate special
2 district government; and proposed District; and

3 WHEREAS, the District desires to levy special assessments on purchasers of benefited
4 land within the District to pay for infrastructure constructed and/or acquired by the District; and

5 WHEREAS, the District shall acquire or construct potable water and wastewater facilities
6 in accordance with the County's Water Utilities Department's standards and procedures to enable
7 the County to provide potable water and wastewater services to the District; and

8 WHEREAS, all applicable planning and permitting laws, rules, regulations and policies
9 control the development of the land to be serviced by District; and

10 WHEREAS, the Board has considered the record of the public hearing and has decided
11 that the establishment of the District is the best alternative means to provide certain basic services
12 to the community; and

13 WHEREAS, the Board finds that the District shall have the general powers described in
14 Section 190.011, Florida Statutes; and

15 WHEREAS, the exercise by the District of any powers other than the powers set forth in
16 Sections 190.011 and 190.012(1), Florida Statutes, shall require consent by the Board of County
17 Commissioners of Palm Beach County by ordinance or resolution; and

18 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
19 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA:**

20 **Section 1.** **ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT:**

21 The Petition to establish the Osprey Oaks Community Development District over the real
22 property described in Exhibit "A" attached hereto, which was filed by Hypoluxo/Jog, LLC, on
23 July 20, 2007 and which Petition is on file at the Office of the County Administrator, is hereby
24 granted.

25 **Section 2.** The external boundaries of the District shall be as depicted on the location
26 map attached hereto and incorporated herein as Exhibit "B".

27 **Section 3.** **NAMING OF THE INITIAL MEMBERS OF THE BOARD:**

28 The initial members of the Board of Supervisors shall be as follows:

- 29 James S. Gielda
30 Adam P. Freedman
31 Richard Kasser
32 Richard Foster
33 Diane Jordan
34

1 **Section 4. ESTABLISHING THE NAMING OF THE DISTRICT:**

2 The name of the District shall be "Osprey Oaks Community Development District".

3 **Section 5. DESIGNATING THE PURPOSE OF THE DISTRICT:**

4 The District is created for the purposes set forth in and prescribed in the petition.

5 **Section 6. DESIGNATING THE POWERS OF THE DISTRICT:**

6 The Board hereby grants to the District all general powers authorized pursuant to Section
7 190.011, Florida Statutes, and hereby finds that it is in the public interest of citizens of the County
8 to grant such general powers.

9 **Section 7.** Notwithstanding Section 6 as set forth hereinabove, Petitioner, as the
10 landowner, shall enter into a Standard Potable Water and Wastewater Development Agreement
11 with the County for the provision of wafer and wastewater facilities. Petitioner shall pay all fees
12 and charges as set forth in said Agreement and shall abide by all terms and conditions therein
13 including, but not limited to, constructing or acquiring the water and wastewater facilities in
14 accordance with the Water Utilities Department's Uniform Policies and Procedures; providing the
15 County with appropriate easements for said facilities; and providing the County with a deed to said
16 water and wastewater facilities at no cost to the County. Palm Beach County's Water Utilities
17 Department shall operate and maintain said water and wastewater facilities and provide water and
18 wastewater service upon receipt of all fees and charges, upon completion of construction and upon
19 receipt of said deed.

20 **Section 8.** Pursuant to Section 190.004(4), Florida Statutes, the charter for the District
21 shall be Sections 190.006 through 190.041, Florida Statutes, including the special powers provided
22 by Section 190.012(2), Florida Statutes. The exercise by the District of powers set forth in Section
23 190.012(2) shall require consent by the Board of County Commissioners. Such consent shall only
24 be provided by resolution or ordinance after specific petition to the Board.

25 **Section 9.** The District is solely responsible for the implementation of special
26 assessments upon benefited property within the District's internal boundaries. The Petitioner, its
27 successors and assignees shall provide notice of said special assessments to all prospective
28 purchasers of said property.

29 **Section 10.** The Petitioner, its successors and assignees shall provide full disclosure of
30 the public financing and maintenance of improvements undertaken by the District. This disclosure
31 shall include a statement in bold print that special assessment imposed by the District will appear
32 in the tax bill. This disclosure shall meet the requirements of Section 190.048, Florida Statutes, as

1 amended from time to time, and shall be included in every contract for sale and in every recorded
2 deed from the Petitioner. The District shall record a notice of assessments in the Public Records
3 both before and after any Bond sale.

4 **Section 11.** The Petitioner, its successors and assignees shall disclose the fact that the
5 development is located in a special taxing district and that a special assessment will be assessed on
6 the tax roll against all property owners within the District. This information shall be in BOLD
7 type in any sales brochures, in an sales information, on the front page of the Declaration of
8 Restrictive Covenants creating the Property Owner Association or Homeowner Association, and
9 on a 24' by 36' sign which shall be posted at all times at the entrance to the sales office of the
10 development providing the following disclosure:

11 "If you purchase a unit in this development you will be subject to additional costs. A
12 special assessment and or taxes will be added to your tax bill. This non-ad valorem assessment will
13 be in addition to all other property taxes and assessments. This cost is estimated to be as follows,
14 depending on the lot type:

Lot Type	Annual Debt Service	Annual Operation & Maintenance	Total Annual Assessment
MF - 25'	\$0.00	\$503.88	\$503.88
SF - 65'	\$1,842.00	\$1,326.00	\$3,168.00
SF - 70'	\$1,989.36	\$1,432.08	\$3,421.44
SF - 85'	\$2,413.02	\$1,737.06	\$4,150.08
SF - 88'	\$2,486.70	\$1,790.10	\$4,276.80
SF - 95'	\$2,689.32	\$1,935.96	\$4,625.28
SF - 100'	\$2,836.68	\$2,042.04	\$4,878.72

15
16 This cost will be levied to pay debt service on the bonds issued by the District as well as operation
17 and maintenance costs."

18 **Section 12.** The Petitioner, its successors and assignees shall provide all the disclosure
19 statements required in Sections 10 and 11 above in a separate page as part of the contract for
20 purchase and sale of property within the District. The potential purchaser must sign this page.

21 **Section 13.** An affidavit of compliance shall be submitted annually to Palm Beach
22 County Monitoring Section beginning on November 1, 2008 until all units have been sold,
23 outlining the number of units sold, providing samples of the documents used in the closing
24 process and certifying compliance with the disclosure requirements contained in this ordinance.
25 The County shall have the right to audit the records of the Petitioner, its successors and assignees
26 upon 10 days written notice to verify the compliance with the disclosure requirements of this
27 ordinance. Failure to comply with the disclosure requirements in this ordinance shall be a violation

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of a county ordinance and shall be punishable as provided by law, including but not limited to enforcement procedures established in Article 14 of the Unified Land Development Code.

Section 14. PROVIDING FOR SEVERABILITY:

Should any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by any court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not effect the remainder of this Ordinance.

Section 15. REPEAL OF LAWS IN CONFLICT:

All local laws and ordinances applying to Palm Beach County in conflict with any provisions of this Ordinance are hereby repealed to the extent of the conflict.

Section 16. PROVIDING FOR AN EFFECTIVE DATE:

This Ordinance shall become effective immediately upon passage.

Approved and adopted by the Board of County Commissioners of Palm Beach County on this _____ day of _____, 2007.

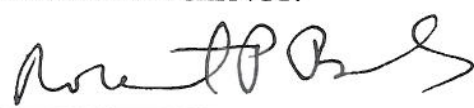
ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF PALM BEACH COUNTY, FLORIDA

By: _____
Deputy Clerk

Addie L. Greene, Chairperson

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



County Attorney

EFFECTIVE DATE: Filed with the Department of State, State of Florida, on the _____ day of _____, 2007.

Exhibit 1A

DESCRIPTION:

A PARCEL OF LAND LYING WITHIN THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 10, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 10; THENCE SOUTH 03°46'16" WEST (AS A BASIS OF BEARINGS) ALONG THE EAST LINE OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF SAID SECTION 10, A DISTANCE OF 722.09 FEET; THENCE SOUTH 89°25'34" WEST, A DISTANCE OF 40.11 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 03°46'16" WEST, A DISTANCE OF 1,323.64 FEET; THENCE SOUTH 89°43'39" WEST, A DISTANCE OF 2,558.91 FEET; THENCE NORTH 43°41'50" WEST, A DISTANCE OF 43.54 FEET; THENCE NORTH 02°51'06" EAST, A DISTANCE OF 566.54 FEET; THENCE NORTH 02°51'02" EAST, A DISTANCE OF 428.30 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE TO THE LEFT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 7,699.44 FEET, A CENTRAL ANGLE OF 00°30'49" FOR A DISTANCE OF 69.02 FEET; THENCE NORTH 02°20'10" EAST, A DISTANCE OF 59.61 FEET; THENCE NORTH 03°21'14" EAST, A DISTANCE OF 153.44 FEET; THENCE NORTH 89°25'34" EAST, A DISTANCE OF 462.58 FEET; THENCE SOUTH 03°27'31" WEST, A DISTANCE OF 312.92 FEET; THENCE NORTH 89°30'04" EAST, A DISTANCE OF 170.41 FEET; THENCE NORTH 03°27'31" EAST, A DISTANCE OF 313.14 FEET; THENCE NORTH 89°25'34" EAST, A DISTANCE OF 336.54 FEET; THENCE SOUTH 03°30'39" WEST, A DISTANCE OF 199.04 FEET; THENCE NORTH 89°28'37" EAST, A DISTANCE OF 605.39 FEET; THENCE NORTH 03°36'17" EAST, A DISTANCE OF 199.60 FEET; THENCE NORTH 89°25'34" EAST, A DISTANCE OF 201.92 FEET; THENCE SOUTH 03°38'09" WEST, A DISTANCE OF 659.51 FEET; THENCE NORTH 89°34'36" EAST, A DISTANCE OF 201.54 FEET; THENCE NORTH 03°40'03" EAST, A DISTANCE OF 660.06 FEET; THENCE NORTH 89°25'34" EAST, A DISTANCE OF 632.97 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

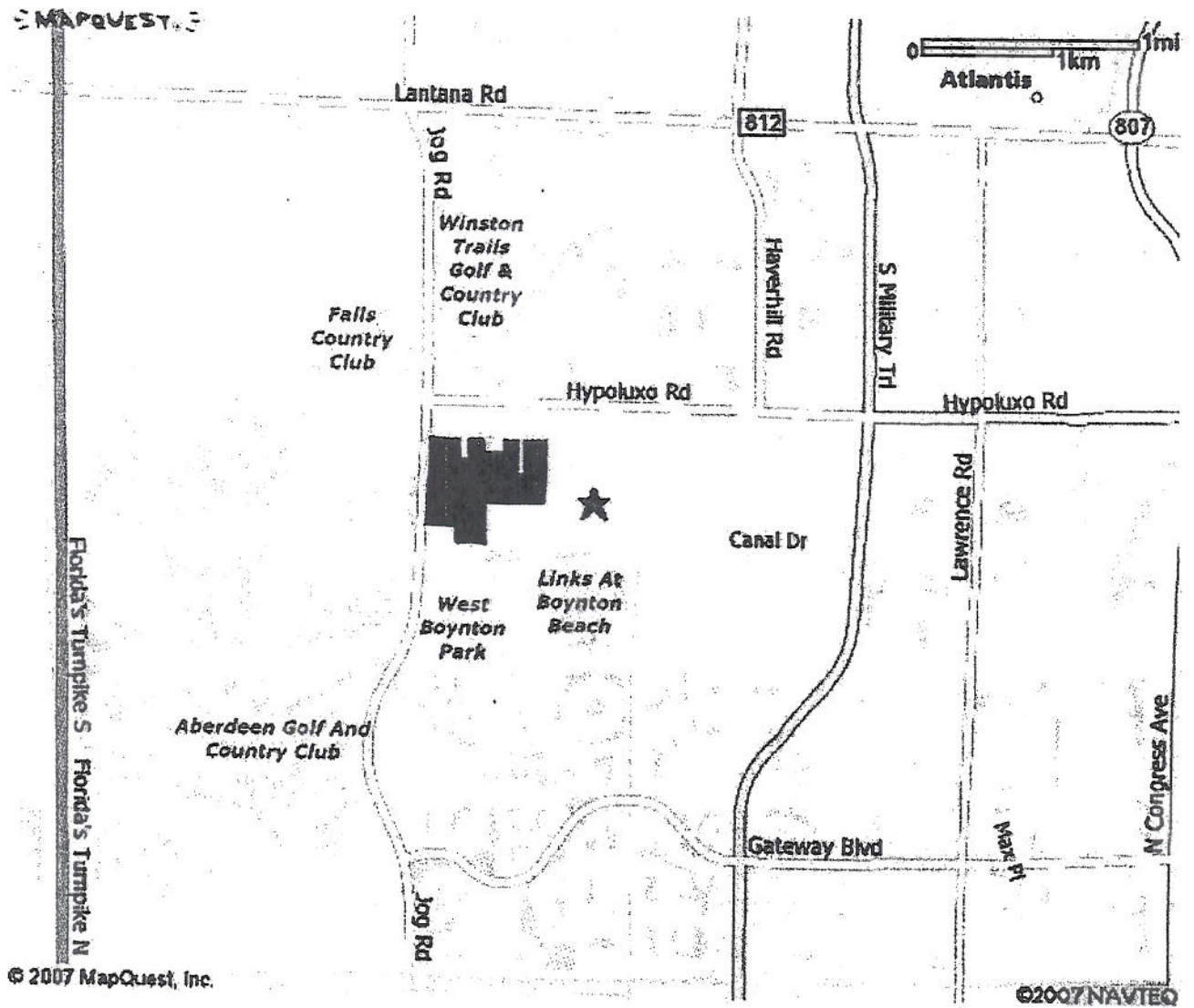
A PARCEL OF LAND LYING WITHIN THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 10, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 10; THENCE SOUTH 03°46'16" WEST (AS A BASIS OF BEARINGS) ALONG THE EAST LINE OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF SAID SECTION 10, A DISTANCE OF 2,106.09 FEET; THENCE SOUTH 89°43'39" WEST, A DISTANCE OF 1,340.63 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 03°33'48" WEST, A DISTANCE OF 658.22 FEET; THENCE SOUTH 89°52'47" WEST, A DISTANCE OF 669.00 FEET; THENCE NORTH 03°27'31" EAST, A DISTANCE OF 343.21 FEET; THENCE SOUTH 89°48'06" WEST, A DISTANCE OF 612.00 FEET; THENCE NORTH 02°13'27" EAST, A DISTANCE OF 283.85 FEET; THENCE NORTH 46°18'10" EAST, A DISTANCE OF 40.90 FEET; THENCE NORTH 89°43'39" EAST, A DISTANCE OF 1,260.63 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

IN ALL CONTAINING 85.873 ACRES MORE OR LESS.

Exhibit 1B

Location Map





COMMUNITY DEVELOPMENT DISTRICT PETITION CONSISTENCY REVIEW

BCC PUBLIC HEARING, OCTOBER 16, 2007

I. General Data

Project Name:	Osprey Oaks Community Development District (CDD)
Request:	To hold a public hearing to grant or deny a petition to establish a Community Development District pursuant to Chapter 190, Florida Statutes.
Project Manager:	Etim S. Udoh, Senior Planner
Staff Recommendation:	Staff recommends <i>denial</i> based on the findings and conclusions presented in this report.
Motion:	To <i>deny</i> the proposed petition.

II. REVIEW SUMMARY

A. BACKGROUND

Chapter 190, F.S., also known as the "Uniform Community Development District Act of 1980" (the Act), contains criteria for establishing, assigning powers, and providing limits to the operation and duration of independent districts in order to manage and finance basic community development services. The Act indicates that proposed Community Development Districts (CDDs) of less than 1,000 acres shall be created by County ordinance after duly notified public hearings based upon a determination of applicable facts, as established in the Act.

Initially, the Board of County Commissioners (BCC) expressed concern over the establishment of CDDs citing unease over limited disclosure requirements, the use of CDD funds for offsite improvements and the additional taxation imposed on residents buying into a community within a CDD. For a period of time the BCC directed staff to deny residential CDDs. As of March 2004, the BCC has given direction to staff to continue reviewing CDD petitions on a case-by-case basis. Petition reviews must comply with State criteria, comply with the disclosure conditions established by the BCC, and ensure that offsite improvements are not included in the obligations of future CDD residents.

B. THE PROPOSED COMMUNITY DEVELOPMENT DISTRICT

1. Petition Purpose and Summary

The purpose of the petition by the Hypoluxo/Jog, LLC is to establish the Osprey Oaks Community Development District. The proposed district will comprise approximately 86 acres of land located within the boundaries of unincorporated Palm Beach County. The district is designed to provide potable water, sanitary and sewer, storm water

management systems and facilities, and will operate and maintain the Storm Water Management System. The ownership and maintenance of potable water and sanitary sewer system will be turned over to Palm Beach County upon completion. The District will consist of 171 single family detached units and 37 multi-family units to be located on the west side of Jog Road and south of Hypoluxo Road, and lies wholly within the boundaries of the unincorporated Palm Beach County. Thirty-seven (37) units in the proposed development have been identified to be sold, or rented as Required Workforce Housing Units. Staff is concerned (further discussed later in this report) with the additional financial burden on both the owners/renters of the 37 workforce housing units resulting from the operation and maintenance fees associated with the creation of the CDD in addition to the Home Owners Association (HOA) fees.

The CDD is being processed in conjunction with the Osprey Oaks Planned Unit Development (PUD) that was approved by the BCC on May 25, 2006.

The complete text of the petition by Hypoluxo/Jog, LLC to establish the Osprey Oaks Community Development District can be viewed at the Palm Beach County Planning Division.

C. REVIEW OF THE FACTORS TO MAKE A DETERMINATION TO GRANT OR DENY THE PETITION AS SET FORTH IN CHAPTER 190.005(1)(e).

Chapter 190.005(1)(e) lists six (6) factors that the County Commission shall consider in addition to the record of the public hearing in making a determination to grant or deny a petition for the establishment of a community development district. The following is a review of those factors and the findings made by staff on each factor:

1. Whether all statements contained within the petition have been found to be true and correct.

The statements contained in the petition appear to be true and correct.

2. Whether the establishment of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.

In accordance with Resolution (R-2066-0982) adopted by the BCC on June 13, 2006, thirty-seven (37) units in the development have been identified to be sold, or rented as Required Workforce Housing Units. These 37 units may only be sold or leased and occupied by eligible households with incomes from 80% to 120% of area median income (AMI). For example, in 2007 units sold/rented to households with incomes from 80% -100% of AMI are sold for no more than \$189,000.00/or rented at \$1,450 per month or less. Units sold to households with incomes from 100% - 120% are sold for no more than \$240,000.00/or rented at \$1,771 per month or less. Although household qualification criteria for these prices/rents account for the costs such as Homeowners Association fees and other fees (such as CDD operation and maintenance fees), there is a concern that the operation and maintenance fees associated with the creation of the CDD in addition to the home owners association fees could create a potential financial burden on both the owners/renters of the 37 workforce housing units.

The establishment of the district is not, otherwise, inconsistent with the effective Comprehensive Plan of Palm Beach County. The Board has enhanced the disclosure requirements to ensure that purchasers of units within CDDs are aware that they will have to pay a special fee. The Board also directed staff to recommend denial for CDDs that are funding offsite improvements, a situation not present in the Osprey Oaks petition.

3. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

The proposed District will include approximately 86 acres of land, located entirely in unincorporated Palm Beach County. From a planning perspective, this area is of sufficient size to function as an interrelated community. The community systems, facilities and services can be physically located within the area in an efficient manner. According to the petitioner, the proposed District will not exclude any parcels of real properties from its boundaries. The boundary of the proposed District will be bifurcated by Western Way, an existing public road rights-of-way owned by Palm Beach County into a larger northern part and a smaller southern part. The District as proposed is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community because the border between the two parts will comprise a public road right-of-way, which will allow for public access to the two parts of the District and will not impede the construction of the District's proposed public improvements or the provision of the District's proposed public community services. Moreover, the area of land within the proposed District is part of a unified plan development for which a development plan has been approved by the BCC.

4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

The petitioner maintains that the proposed District will be the best alternative available for delivering community development services to the area to be served because (i) the District provides a governmental entity responsible for delivering those services and facilities in a manner that does not financially impact persons residing outside the District, (ii) the Chapter 190, Florida Statutes, authorizes a community development district to acquire infrastructure improvements previously constructed by the Petitioner or allows for a community development district to, in the first instance, construct such infrastructure improvements, (iii) the timing for the establishment of the proposed District and the issuance of special assessment bonds is compatible with the timing for the construction and acquisition of such infrastructure improvements which result in direct benefit to the landowners and their assigns within the District, (iv) establishment of a community development district in conjunction with a comprehensively planned community, as proposed, allows for a more efficient use of resources as well as providing the opportunity for new growth to pay for itself, and (v) establishment of the District will provide a perpetual entity capable of making reasonable provisions for the operation and maintenance of many of the District services and facilities.

The petitioner has estimated the costs for providing the capital facilities outlined in Table 1 of the petition. The cost estimates are shown in Table 2 of the petition. Total costs for those facilities, which may be provided, are estimated to be approximately \$3,751,945, out of which the District projects funding up to approximately +/- \$3.4 million, with the balance acquired at no cost from the Developer. The District may levy non-ad valorem special assessment (by a variety of names) and may issue special assessment bonds to fund the costs of these facilities. These bonds would be repaid through non-ad valorem special assessments levied on all properties in the District that may benefit from the District's infrastructure program as outlined in Table 2 of the petition. Staff is concerned, however, that the operation and maintenance fees associated with the creation of the CDD in addition to the home owners association fees could create a potential financial burden on both the owners/renters of the 37 workforce housing units.

5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

The systems, services and facilities that will be built within the proposed District will not be incompatible with the capacity and uses of existing local and regional community services and facilities. The existing potable water and sanitary sewer lines are of adequate size to support the proposed District and will be extended to all parcels of land. All newly built potable water and sanitary sewer systems and facilities will be constructed in accordance with Palm Beach County Utilities Department's standards and the County will operate and maintain the potable water and sanitary sewer systems, facilities and services. The District will principally manage the storm water management system.

There will be no duplication of the proposed District's services or facilities with any available regional service or facilities within the proposed District. The water and wastewater facilities will be transferred at no cost to the Palm Beach County.

6. Whether the area that will be served by the district is amendable to separate special-district government.

The land area to be included in the proposed District is sufficiently compact, contiguous and of sufficient size to be developed as one functional interrelated community, and it is compatible with existing or proposed local or regional facilities.

According to the petitioner, there are no special or unusual difficulties with providing the improvements and facilities and a separate special district government will be capable of providing local, responsive services to meet the needs of the proposed District. However, the proliferation of special districts in the County may be of some concern in the future.

D. ASSESSMENT AND CONCLUSIONS

The Planning Division, after reviewing the petition has found it to be sufficient in that it is generally consistent with the statutory requirements, has met the disclosure requirements and is limited to onsite improvements.

Staff, however, is concerned (see page 2 under item C.2) with this petition due to a potential financial burden on both the owners/renters of the 37 workforce housing units resulting from the operation and maintenance fees associated with the creation of the CDD in addition to the home owners association fees. Staff is therefore recommending denial of the petition.

T:\planning\Comprehensive\Community Development District (CDD)\Ospery Oaks staff report.doc

10/16/07 – Agenda Item 4C
Additional Backup



DEVELOPERS INC.

RECEIVED

OCT 03 2007

PLANNING DIVISION

October 1, 2007

Original via U.S. Mail
Copy via Facsimile

Mr. Etim S. Udoh
Senior Planner
Palm Beach County Planning Department
2300 North Jog Road
West Palm Beach, FL 33411

RE: Community Development District (CDD) Petition for Osprey Oaks PUD

Dear Mr. Udoh:

I am in receipt of your Staff Report regarding my request to establish a Community Development District (CDD) over the 86-acre Osprey Oaks PUD project at the October 16th Board of County Commissioners (BCC) hearing. As you are aware, this project is located in District 3 at the southeast corner of Jog Rd. and Hypoluxo Rd. Osprey Oaks incorporates 171 market rate single-family residences and 37 multi-family workforce residences. This project received Board approval in May 2006 during a period when Palm Beach County was developing workforce housing requirements, policies and procedures.

Your Staff Report indicates that Staff is not in support of this petition and is recommending denial to the Board. As previously discussed at our August meeting and subsequent telephone conversations, Staff is concerned about **one** issue: the assignment of an estimated \$42.00/month in CDD **maintenance and operations** assessments to each workforce unit. The \$42.00/month maintenance and operations assessment covers the costs of maintaining storm water management systems, rights-of-way and perimeter landscape buffers (plant materials and irrigation) within the boundaries of the proposed District. As the attached draft HOA budgets show, those maintenance cost line items (highlighted in pink) are excluded from the HOA and are instead the responsibility of the CDD. There is no double-assessing for these maintenance and operations costs.

In an effort to provide you with additional information that explains the benefits of a Community Development District, especially in a project with workforce housing, I have summarized the following five (5) points for your consideration:

1. **Issuance of Series B Bonds:** I have spoken with counsel regarding the exclusion of the +/- 2.5 acre workforce housing parcel from the boundaries of this CDD. The purpose of the Osprey Oaks CDD is to provide public financing for the cost effective build-out of storm water management, water/sewer, perimeter landscape buffer, and internal right-of-way improvements that benefit **all** property owners within the District. Each infrastructure system serves **all** units within the project and cannot be segregated into market rate and workforce components. These improvements will also be located on portions of the property that will be deeded over to the CDD.

Simply stated, it is very difficult for the Bond market to accept let alone fund select bits and pieces of common infrastructure improvements that may or may not be located on CDD owned land. It is the complete improvements, CDD owned land and the housing stock which relies upon these improvements that builds the value the Bond issuance is backing.

2. Sales Tax and 30-Year Financing: Public financing of common infrastructure improvements permits the tax-exempt purchase of goods and services required to build out these systems. This financing tool translates to a 6.5% cost savings in taxes in addition to a 2+ point savings when compared to traditional land development financing. One can argue that this savings in combination with a 30-year finance term results in a housing product that can be sold at a lower purchase price with better construction materials, methods and finishes to a broader segment of the market.
3. Debt Assessments: To reiterate, **this request excludes all workforce units from CDD debt assessments**. The capital cost for those portions of the common infrastructure improvements that benefit all 37 workforce units will be paid for by the Developer. Each workforce unit, like each market rate unit, is responsible for a portion of maintenance and operations costs for the storm water management system, perimeter buffer landscaping and right-of-way maintenance. These costs are real and must be fairly distributed to each property owner that benefits.
4. Control Over CDD Maintenance Assessments: At turnover, the CDD Board of Supervisors will comprise of five (5) property owners elected by registered voters who reside within the community. Board Members are typically elected yearly. One responsibility of the Board is to review maintenance costs and determine the funding required to maintain infrastructure under its control. Maintenance assessments can not be unfairly assigned to certain property owners within the District; the distribution of maintenance assessments to each property must be carefully analyzed and assigned based on how much each property benefits from each infrastructure improvement.

It is important to include the workforce housing parcel within the boundaries of the District so that all residents within the Osprey Oaks community will have the opportunity to elect Board members and therefore maintain a voice regarding maintenance costs.

5. Unforeseen Circumstances: As the residential housing market continues to adjust, HOA's have had an increasingly difficult time collecting their monthly/quarterly maintenance fees and assessments. This can result in an under funded HOA that can not provide the routine maintenance that infrastructure systems require or may require after a hurricane or other unforeseen event. Since the CDD maintenance assessment is typically a separate line item under non ad-valorem assessments on the real estate tax bill, the homeowner typically places more importance on covering these prior to those of the HOA.

Upon review of this correspondence and subsequent attachments, I would urge Staff to revisit their position on this request. Furthermore, my counsel, CDD coordinator and I are available to continue discussions on this subject prior to the October 16th hearing. Thank you.

Sincerely,

EB Developers


James S. Gielda
Project Manager

Jsg/jg

cc: Ms. Barbara Alterman via email
Mr. Lorenzo Aghemo via email
Mr. Michal Szymonowicz via email

Operating Budget For: Osprey Oaks Market Rate Units

Prepared D.S. | 09/27/07 | 05:41 PM
(init.) (date) (time)

FOR THE PERIOD OF JANUARY 1, 2008 THROUGH DECEMBER 31, 2008

Units 171 No. 1

Approved _____
(init.) (date) (time)

2007 ESTIMATED OPERATING BUDGET

Revenues:

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Annual	Per Unit	
Owner Assessments	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	327,839	1,917	
Late Fee Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Based on 3 delinquents per month at \$25 each.
Laundry Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Rec. Room Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Screening Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Parking Decals	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Interest Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Water Reimbursement	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Total Revenue	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	327,839	1,917	

Expenses:

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Annual	Per Unit	
Administrative & Office:															
Onsite Manager	1,823	1,823	1,823	1,823	1,823	1,823	1,823	1,823	1,823	1,823	1,823	1,823	21,876	128	Manager at \$35,000 plus benefits, part time-20 Hrs.
Security	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Assoc. Administration Part-Time	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Doorman-8 Hrs/Day	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Property Taxes	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Leased Area Taxes	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Other Expenses	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Operating Capital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Bank/Audit Fees	42	42	42	42	42	42	42	42	42	42	42	42	504	3	Yearly audit fee.
Legal Fees	417	417	417	417	417	417	417	417	417	417	417	417	5,004	29	Liens, legal advise and interpretation of Documents.
Insurance-ALL	4,988	4,988	4,988	4,988	4,988	4,988	4,988	4,988	4,988	4,988	4,988	4,988	59,850	350	Property, D&O, Liability, Umbrella, Bond & DIC.
Postage & Delivery	150	150	150	150	150	150	150	150	150	150	150	150	1,800	11	Member meetings, delinquency notice and other.
Office Expense/Uniforms	105	105	105	105	105	105	105	105	105	105	105	105	1,260	7	Office supplies and shirts for Maintenance.
Copier Contract	50	50	50	50	50	50	50	50	50	50	50	50	600	4	
Screening Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Computer Expense	75	75	75	75	75	75	75	75	75	75	75	75	900	5	Unexpected repairs, parts and/or additions.
Licenses Fees & Permits	175	175	175	175	175	175	175	175	175	175	175	175	2,100	12	Homeowner software and pool licenses.
Fees to Division	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Annual Corporate Filing	8	8	8	8	8	8	8	8	8	8	8	8	96	1	Per Department of Business and Professional Regulations.
Contingency	150	150	150	150	150	150	150	150	150	150	150	150	1,800	11	For under budgeted items or unforeseen expense.
Total Administrative & Office	7,983	7,983	7,983	7,983	7,983	7,983	7,983	7,983	7,983	7,983	7,983	7,983	95,790	560	

Utilities:

Electric	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	14,400	84	Common Area exterior lighting, pool and Clubhouse.
Water & Sewer	650	650	650	650	650	650	650	650	650	650	650	650	7,800	46	Common Area Water.
Trash Removal	250	250	250	250	250	250	250	250	250	250	250	250	3,000	18	One Dumpster at Clubhouse.
Telephone/Pagers	550	550	550	550	550	550	550	550	550	550	550	550	6,600	39	Clubhouse and gate lines. Emergency pager.
Cable/Internet	6,840	6,840	6,840	6,840	6,840	6,840	6,840	6,840	6,840	6,840	6,840	6,840	82,080	480	Bulk Cable at \$40 per home.
Gas	125	125	125	125	125	125	125	125	125	125	125	125	1,500	9	Gas to heat pools.
Total Utilities	9,615	9,615	9,615	9,615	9,615	9,615	9,615	9,615	9,615	9,615	9,615	9,615	115,380	675	

Management Fees

Mgmt. Fees	1,368	1,368	1,368	1,368	1,368	1,368	1,368	1,368	1,368	1,368	1,368	1,368	16,416	96	Management at \$8 per home/door.
Total Management Fees	1,368	1,368	1,368	1,368	1,368	1,368	1,368	1,368	1,368	1,368	1,368	1,368	16,416	96	

Ground Maintenance:

Maintenance Mgr.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Maintenance Porter	1,286	1,286	1,286	1,286	1,286	1,286	1,286	1,286	1,286	1,286	1,286	1,286	15,437	90	Porter/Part time at \$9.50 per hour plus taxes.-25 Hrs
Housekeeper	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Surveillance	125	125	125	125	125	125	125	125	125	125	125	125	1,500	9	Repairs as needed.
Interior Grounds Supplies	150	150	150	150	150	150	150	150	150	150	150	150	1,800	11	Supplies needed to clean Common Area.
Elevator Maintenance Contract	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Elevator Maintenance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Fire Protection Monitoring	40	40	40	40	40	40	40	40	40	40	40	40	480	3	Alarm Monitoring for Clubhouse.
Fire Protection	375	375	375	375	375	375	375	375	375	375	375	375	4,500	26	Clubhouse fire extinguisher/sprinklers and community.
Janitorial Supplies	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Interior Landscaping	4,275	4,275	4,275	4,275	4,275	4,275	4,275	4,275	4,275	4,275	4,275	4,275	51,300	300	Mowing and hedging of Common Areas.
Interior Flowers/Mulch	458	458	458	458	458	458	458	458	458	458	458	458	5,496	32	Quarterly flower rotation and mulching of focal points.

Operating Budget For: Osprey Oaks Market Rate Units

Prepared D.S. | 09/27/07 | 05:41 PM
 (init.) (date) (time)

FOR THE PERIOD OF JANUARY 1, 2008 THROUGH DECEMBER 31, 2008

Units 171 No. 1

Approved _____
 (init.) (date) (time)

2007 ESTIMATED OPERATING BUDGET

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Annual	Per Unit	
Interior Tree Trimming	250	250	250	250	250	250	250	250	250	250	250	250	3,000	18	Annual tree trimming of Common Areas.
Interior Landscaping Repairs/Impr.	250	250	250	250	250	250	250	250	250	250	250	250	3,000	18	Additions or replacement of Common Area vegetation.
Interior Landscaping (PDD)															
Interior Fountains (PDD)															
Interior Tree Trimming (PDD)															
Interior Landscaping Repairs/Maint (PDD)															
Play Areas/Gazebo	50	50	50	50	50	50	50	50	50	50	50	50	600	4	Maintenance as needed for Play and Gazebo Areas.
Outlet Waste													-	-	
Pest Control													-	-	
Alarm Monitoring Contract	45	45	45	45	45	45	45	45	45	45	45	45	540	3	Clubhouse alarm.
Pool Supplies/Filters/Furniture	350	350	350	350	350	350	350	350	350	350	350	350	4,200	25	Pool/Kid Pool chemicals, equipment replacements and repairs.
Repairs & Maintenance	65	65	65	65	65	65	65	65	65	65	65	65	780	5	Signs, pool furniture repair/replacement, etc.
Interior Electric Repairs/Lights/etc.	75	75	75	75	75	75	75	75	75	75	75	75	900	5	As needed.
Interior Signs (PDD)															
Air Conditioning/Cooling Tower	125	125	125	125	125	125	125	125	125	125	125	125	1,500	9	Repairs as needed to Clubhouse A/C.
Back-Up Generator													-	-	
Gate Repairs	300	300	300	300	300	300	300	300	300	300	300	300	3,600	21	Repairs needed for front entrance gate.
Exercise Equipment	75	75	75	75	75	75	75	75	75	75	75	75	900	5	Exercise equipment management contract.
Pool Station (PDD)															
Interior Plumbing Repairs/Irrigation	60	60	60	60	60	60	60	60	60	60	60	60	720	4	Average of 2 damaged sprinkler heads per month.
Interior Plumbing Repairs (PDD)															
Water Management System (PDD)															
Lake Tree Trimming															
Drainage/Aquatic Plant Control															
Structure Maintenance															
Painting															
Restrooms/Fountains															
Total Ground Maintenance	8,354	8,354	8,354	8,354	8,354	8,354	8,354	8,354	8,354	8,354	8,354	8,354	100,253	586	
Total Exp/Less Reserves	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	327,839	1,917	
Sub-Total With Reserves	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	327,839	1,917	
Total Effective Expense	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	27,320	327,839	1,917	\$159.75 per unit per month (average)

Operating Budget For: Osprey Oaks Workforce Housing Units

Prepared D.S. | 09/27/07 | 05:41 PM
(init.) (date) (time)

FOR THE PERIOD OF JANUARY 1, 2008 THROUGH DECEMBER 31, 2008

Units 37 No. 1

Approved _____
(init.) (date) (time)

2007 ESTIMATED OPERATING BUDGET

	Month	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Annual	Per Unit
Revenues:														
Owner Assessments	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	120,710	3,262
Late Fee Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Laundry Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Rec. Room Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Screening Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Parking Decals	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Water Reimbursement	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Revenue	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	120,710	3,262

	Month	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Annual	Per Unit
Expenses:														
Administrative & Office:														
Onsite Manager													-	-
Conceirge-24 Hrs/Day													-	-
Assoc. Administration Part-Time													-	-
Doorman-8 Hrs/Day													-	-
Property Taxes													-	-
Leased Area Taxes													-	-
Other Expenses													-	-
Operating Capital													-	-
Bank/Audit Fees	35	35	35	35	35	35	35	35	35	35	35	35	420	11
Legal Fees	75	75	75	75	75	75	75	75	75	75	75	75	900	24
Insurance-ALL	3,546	3,546	3,546	3,546	3,546	3,546	3,546	3,546	3,546	3,546	3,546	3,546	42,550	1,150
Insurance-D & O Umbrella & Crime	350	350	350	350	350	350	350	350	350	350	350	350	4,200	114
Postage & Delivery	40	40	40	40	40	40	40	40	40	40	40	40	480	13
Office Expense/Uniforms	70	70	70	70	70	70	70	70	70	70	70	70	840	23
Copier/KeyTrack Contract													-	-
Screening Fees													-	-
Computer Expense	50	50	50	50	50	50	50	50	50	50	50	50	600	16
Licenses Fees & Permits	13	13	13	13	13	13	13	13	13	13	13	13	150	4
Fees to Division	13	13	13	13	13	13	13	13	13	13	13	13	156	4
Annual Corporate Filing	8	8	8	8	8	8	8	8	8	8	8	8	96	3
Contingency	50	50	50	50	50	50	50	50	50	50	50	50	600	16
Total Administrative & Office	4,249	4,249	4,249	4,249	4,249	4,249	4,249	4,249	4,249	4,249	4,249	4,249	50,892	1,378

Utilities:														
Electric	300	300	300	300	300	300	300	300	300	300	300	300	3,600	97
Water & Sewer Use Fees	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000	324
Trash Removal	600	600	600	600	600	600	600	600	600	600	600	600	7,200	195
Telephone/Pagers	180	180	180	180	180	180	180	180	180	180	180	180	2,160	58
Cable/Internet	1,295	1,295	1,295	1,295	1,295	1,295	1,295	1,295	1,295	1,295	1,295	1,295	15,540	420
Gas	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Utilities	3,375	3,375	3,375	3,375	3,375	3,375	3,375	3,375	3,375	3,375	3,375	3,375	40,500	1,095

Management Fees														
Mgmt. Fees	407	407	407	407	407	407	407	407	407	407	407	407	4,884	132
Total Management Fees	407	407	407	407	407	407	407	407	407	407	407	407	4,884	132

Ground Maintenance:														
Maintenance Mgr.													-	-
Maintenance Porter	772	772	772	772	772	772	772	772	772	772	772	772	9,262	250
Housekeeper													-	-
Surveillance													-	-
Interior Grounds Supplies	50	50	50	50	50	50	50	50	50	50	50	50	600	16
Elevator Maintenance Contract													-	-
Elevator Maintenance													-	-
Fire Protection Monitoring	80	80	80	80	80	80	80	80	80	80	80	80	960	26
Fire Protection	125	125	125	125	125	125	125	125	125	125	125	125	1,500	41

Operating Budget For: **Osprey Oaks Workforce Housing Units**

Prepared D.S. | 09/27/07 | 05:41 PM
(init.) (date) (time)

FOR THE PERIOD OF JANUARY 1, 2008 THROUGH DECEMBER 31, 2008

Units **37** No. **1**

Approved _____
(init.) (date) (time)

2007 ESTIMATED OPERATING BUDGET

	Monthly	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Annual	Per Unit	
Janitorial Supplies	50	50	50	50	50	50	50	50	50	50	50	50	600	16	
Interior Landscaping	400	400	400	400	400	400	400	400	400	400	400	400	4,800	130	Mowing and hedging of Common Areas.
Interior Flowers/Mulch	50	50	50	50	50	50	50	50	50	50	50	50	600	16	Quarterly flower rotation and mulching where needed.
Interior Tree Trimming	35	35	35	35	35	35	35	35	35	35	35	35	420	11	Annual tree trimming of Common Areas.
Interior Landscaping Repairs/Impr.	15	15	15	15	15	15	15	15	15	15	15	15	180	5	
Exterior Landscaping (RDD)															
Exterior Flowers/Mulch (RDD)															
Exterior Tree Trimming (RDD)															
Exterior Landscaping Repairs/Impr. (RDD)															
Cabana/Gazebo	20	20	20	20	20	20	20	20	20	20	20	20	240	6	Repairs to Cabana/Gazebo.
Valet Waste													-	-	
Pest Control	56	56	56	56	56	56	56	56	56	56	56	56	672	18	Interior pest control service.
Alarm Monitoring Contract													-	-	
Pool Supplies/Filters/Furniture	175	175	175	175	175	175	175	175	175	175	175	175	2,100	57	Pool chemicals, supplies and repairs.
Repairs & Maintenance	50	50	50	50	50	50	50	50	50	50	50	50	600	16	Signs, pool furniture and building repair/replacement, etc.
Interior Electric Repairs/Lights/etc.	60	60	60	60	60	60	60	60	60	60	60	60	720	19	Building light repairs and replacements.
Smart Signs (RDD)															
Air Conditioning/Cooling Tower													-	-	
Back-Up Generator													-	-	
Parking Lot	40	40	40	40	40	40	40	40	40	40	40	40	480	13	Parking space striping, bumps and other repairs needed.
Exercise Equipment													-	-	
Exterior Signs (RDD)															
Interior Plumbing Repairs/Irrigation	50	50	50	50	50	50	50	50	50	50	50	50	600	16	Average of two sprinklers per month.
Exterior Plumbing Repairs/Irrigation (RDD)															
Water Management System (RDD)															
Water Tank Monitor															
Dredging/Aquatic Plant Control															
Structural Repairs/Repaint															
Total Ground Maintenance	2,028	2,028	2,028	2,028	2,028	2,028	2,028	2,028	2,028	2,028	2,028	2,028	24,334	658	
Total Exp/Less Reserves	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	120,710	3,262	
Sub-Total With Reserves	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	120,710	3,262	
Full Waiver	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Total Effective Expense	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	10,059	120,710	3,262	\$271.83 per unit per month (average)