

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONTINUED FROM 10/16/07 & 11/20/07

AGENDA ITEM SUMMARY

Meeting Date: 01/15/08 Consent Regular
 Workshop Public Hearing

Department: Planning, Zoning and Building

Submitted By: Planning, Zoning and Building

Submitted For: Planning Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends a motion TO NOT ADOPT: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT OVER REAL PROPERTY LEGALLY DESCRIBED ON EXHIBIT "A" TO THIS ORDINANCE COMPRISING OF APPROXIMATELY 86 ACRES; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS OF THE DISTRICT; ESTABLISHING THE NAME OF THE DISTRICT AS OSPREY OAKS COMMUNITY DEVELOPMENT DISTRICT; DESIGNATING THE PURPOSE OF THE DISTRICT; DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Summary: The Board of County Commissioners (BCC) has been petitioned to grant the establishment of the Osprey Oaks Community Development District (CDD) to finance and construct services for a master planned residential development district. After reviewing the petition, the Planning Division has found the petition to be sufficient in that it is consistent with the statutory requirements, has met the disclosure requirements and is limited to onsite improvements. However, staff is concerned (as explained in the staff report with this petition due to a potential financial burden (in addition to the Home Owners Association (HOA) fees and the property taxes) on both the owners/renters of the; (i) 37 required workforce housing units resulting from the operation and maintenance fees (\$504/year or \$42/month) associated with the creation of the CDD, and (ii) 171 single family detached units resulting from the annual assessment (operation and maintenance plus the debt service) fees (ranging from \$3168/year or \$264/month to 4,879/year or \$407/month) associated with the creation of the CDD. The District is located (within unincorporated County) on the west side of Jog Road and south of Hypoluxo Road. 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 proposed District will 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. (BB, District 3).

Background and Policy Issues: Chapter 190, Florida Statutes, states that the creation of a Community Development District (of less than 1,000 acres) shall be accomplished through the enactment of a BCC ordinance after a public hearing. Petition reviews must comply with State statutes, be consistent with Comprehensive Plan, comply with the disclosure conditions established by the BCC, and ensure that offsite improvements are not included in the obligations of future CDD residents. For a detailed analysis of the petition see the attached staff report.

Initially, the 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 case-by-case basis.

- Attachments:**
1. Proposed Ordinance (Exhibits A & B)
 2. Staff Report
 3. CDD Approval and Denial History (Since 2001)

Recommended by: *[Signature]* 12/7/07
 Executive Director Date

Approved By: *[Signature]* 1/2/08
 Deputy County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<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	==	==	==	==	==
# ADDITIONAL FTE POSITIONS (Cumulative)	---	---	---	---	---

Is Item Included In Current Budget? Yes No
 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 McGuire

III. REVIEW COMMENTS

A. **OFMB Fiscal and/or Contract Dev. and Control Comments:**
 There will be no cost to the County for the transfer of services. These services are already included in the County's budgeted scope of work.

SS 12-14-07 OFMB CW 12/13/07 Contract Dev. and Control 12/18/07

B. Legal Sufficiency:
[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

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ORDINANCE 2008 -

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT OVER THE REAL PROPERTY LEGALLY DESCRIBED ON EXHIBIT "A" TO THIS ORDINANCE COMPRISING OF APPROXIMATELY 86 ACRES; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS OF THE DISTRICT; ESTABLISHING THE NAME OF THE DISTRICT AS OSPREY OAKS COMMUNITY DEVELOPMENT DISTRICT; DESIGNATING THE PURPOSE OF THE DISTRICT; DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 **Section 1.** **ESTABLISHING A COMMUNITY DEVELOPMENT**
26 **DISTRICT:**

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

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

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

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

3 James S. Gielda
4 Adam P. Freedman
5 Richard Kasser
6 Richard Foster
7 Diane Jordan
8

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

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

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

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

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

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

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

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

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

5 **Section 10.** The Petitioner, its successors and assignees shall provide full
6 disclosure of the public financing and maintenance of improvements undertaken by the
7 District. This disclosure shall include a statement in bold print that special assessment
8 imposed by the District will appear in the tax bill. This disclosure shall meet the
9 requirements of Section 190.048, Florida Statutes, as amended from time to time, and shall
10 be included in every contract for sale and in every recorded deed from the Petitioner. The
11 District shall record a notice of assessments in the Public Records both before and after
12 any Bond sale.

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

20 "If you purchase a unit in this development you will be subject to additional costs.
21 A special assessment and or taxes will be added to your tax bill. This non-ad valorem
22 assessment will be in addition to all other property taxes and assessments. This cost is
23 estimated to be as follows, 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

24
25 This cost will be levied to pay debt service on the bonds issued by the District as well as
26 operation and maintenance costs."

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

5 **Section 13.** An affidavit of compliance shall be submitted annually to Palm
6 Beach County Monitoring Section beginning on November 1, 2008 until all units have been
7 sold, outlining the number of units sold, providing samples of the documents used in the
8 closing process and certifying compliance with the disclosure requirements contained in
9 this ordinance. The County shall have the right to audit the records of the Petitioner, its
10 successors and assignees upon 10 days written notice to verify the compliance with the
11 disclosure requirements of this ordinance. Failure to comply with the disclosure
12 requirements in this ordinance shall be a violation of a county ordinance and shall be
13 punishable as provided by law, including but not limited to enforcement procedures
14 established in Article 14 of the Unified Land Development Code.

15
16 **Section 14. PROVIDING FOR SEVERABILITY:**

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

20 **Section 15. REPEAL OF LAWS IN CONFLICT:**

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

23 **Section 16. PROVIDING FOR AN EFFECTIVE DATE:**

24 This Ordinance shall become effective immediately upon passage.

25 Approved and adopted by the Board of County Commissioners of Palm Beach
26 County on this _____ day of _____, 2008.

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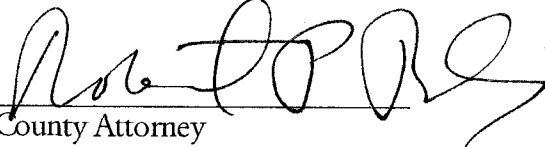
BOARD OF COUNTY COMMISSIONERS
OF PALM BEACH COUNTY, FLORIDA

Sharon R. Bock
Clerk & Comptroller

By: _____
Deputy Clerk

Addie 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 _____, 2008.

G:\WPDATA\LANDUSE\RBANKS\COMP\Osprey Oaks CDD\Petition v3 Ordinance.doc

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:

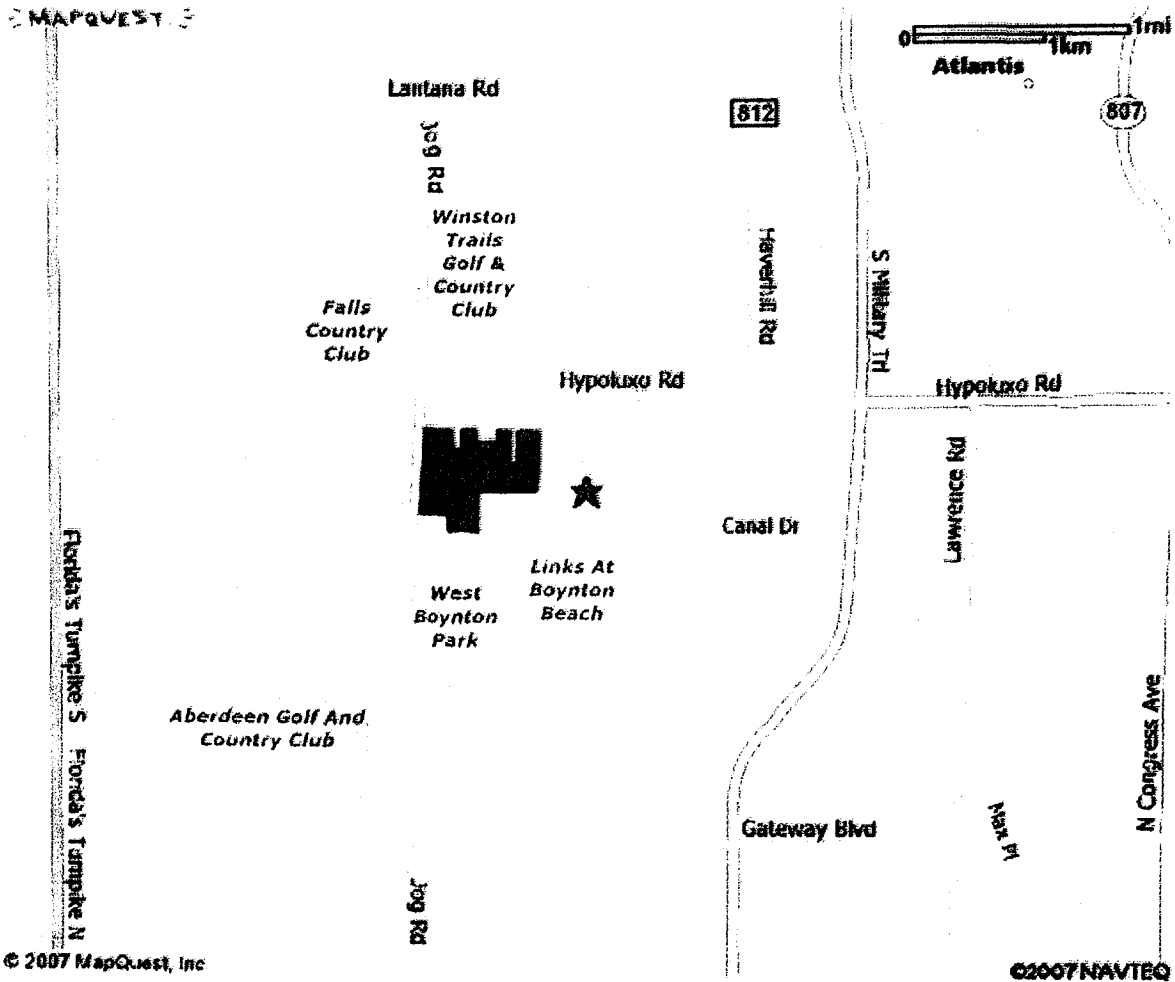
A PARCEL OF LAND LYING WITHIN THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 10, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 10; THENCE SOUTH 03°46'16" WEST (AS A BASIS OF BEARINGS) ALONG 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, JANUARY 15, 2008
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 denial based on the findings and conclusions presented in this report.
Motion:	To deny the proposed petition.
Note:	This report has been modified from the original version. The added and deleted text is shown in <u>underline</u> and strikethrough format respectively.

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 (in addition to the Home Owners Association (HOA) fees and the property taxes) on both the owners/renters of the; (i) 37 workforce housing units resulting from the operation and maintenance fees (\$504/year or \$42/month) associated with the creation of the CDD in addition to the Home Owners Association (HOA) fees, and (ii) 171 single family detached units resulting from the annual assessment (operation and maintenance plus the debt service) fees (ranging from \$3168/year or \$264/month to 4,879/year or \$407/month) associated with the creation of the CDD.

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

Attachment 2 – Revised Staff Report

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 (for workforce and market rate units) and the annual debt service (for market rate units only) associated with the creation of the CDD, in addition to the home owners association fees and the property taxes, could create a potential financial burden on both the owners/renters of the 37 workforce housing units and the 171 single family detached 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

Attachment 2 – Revised Staff Report

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 (for workforce and market rate units) and the annual debt service (for market rate units only) associated with the creation of the CDD, in addition to the home owners association fees and the property taxes, could create a potential financial burden on both the owners/renters of the 37 workforce housing units and the 171 single family detached 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 3 under item C.2) with this petition due to a potential financial burden (in addition to the Home Owners Association (HOA) fees and the property taxes) on both the owners/renters of the: (i) 37 workforce housing units resulting from the operation and maintenance fees (\$504/year or \$42/month) associated with the creation of the CDD in addition to the Home Owners Association (HOA) fees, and (ii) 171 single family detached units resulting from the annual assessment (operation and maintenance plus the debt service) fees (ranging from \$3168/year or \$264/month to 4,879/year or \$407/month) associated with the creation of the CDD.

Attachment 3

**COMMUNITY DEVELOPMENT DISTRICT (CDD)
APPROVAL AND DENIAL HISTORY (SINCE 2001)**

Date of application	Project Name	Public Hearing Date	Staff Recommendation	BCC Action	Co. Ord.
7/20/07	Osprey Oaks CDD (Current Petition) (approx. 86 acres) Residential	10/16/2007	Denial <u>Reason:</u> A potential financial burden (in addition to the HOA fees and the property taxes) on both the owners/renters of the (i) 37 required workforce housing units resulting from the operation & maintenance fees associated with the creation of the CDD, and (ii) 171 single family detached units resulting from the annual assessment (operation & maintenance plus the debt service) fees associated with the creation of the CDD.	Current Petition	
6/21/06	Vista CDD Modification (To expand & contract the boundaries) (1.6 acres) Residential	9/12/2006	Approval <u>Reason:</u> Found it to be sufficient and generally consistent with the statutory requirements and the Comprehensive Plan.	Approved 9/12/2006	Ord. #2005-063 amended
6/21/2005	Vista CDD (approx. 46 acres) Residential	12/20/2005	Denial <u>Reason:</u> Inconsistent with three of the statutory factors: not the best alternative to deliver community services and facility, not functionally interrelated community, area served by the district is not amendable to a separate special district government.	Approved 12/20/2005	Ord. #2005-063
1/13/2004	Terracina CDD (approx. 175.809 acres) Residential	03/16/2004	Approval <u>Reason:</u> Found to comply with the disclosure conditions established by the BCC and no inclusion of offsite improvements as part of the obligations of future CDD residents.	Approved 03/16/2004	Ord. #2004-006
4/21/2003	Wyndam Park CDD (approx. 75.28 acres) Residential	04/15/2003	Denial <u>Reason:</u> Since this is a residential project, it is inconsistent with recent direction by the BCC to limit the approval of CDDs to non-residential developments.	Approved 04/15/2003	Ord. #2003-017
8/28/2003	Palm Beach Plantation CDD (approx. 261.18 acres)	11/18/2003	Denial <u>Reason:</u> Insufficient and inconsistent with recent policy direction by the BCC to limit CDDs	Approved 11/18/2003	Ord. #2003-054

	Residential		approval to non-residential projects and to projects that promote mixed used developments.		
8/28/03	Cypress Lakes CDD (approx. 52.34 acres) Residential	11/18/2003	Denial <u>Reason:</u> Insufficient and inconsistent with recent policy direction by the BCC to limit CDDs approval to non-residential projects and to projects that promote mixed used developments.	Approved 11/18/2003	Ord. #2003-053
	Beeline CDD Industrial	7/23/2002	Approval <u>Reason:</u> Found it to be sufficient and consistent with the Comprehensive Plan.	Approved 07/31/2002	Ord. # 2002-30
9/13/2001	Hypoluxo/Haverhill CDD (approx. 68 acres) Residential	11/16/2001	Approval <u>Reason:</u> Found the petition to be sufficient and not inconsistent with the Comprehensive Plan.	Approved 11/16/2001	Ord. #2001-066

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