

6E-1

Agenda Item #: _____

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: August 17, 2010

Consent Regular
 Public Hearing

Department

Submitted By: Environmental Resources Management

Submitted For: Environmental Resources Management

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Termination of Easement for a 0.99 acre Conservation Easement at the Whiteside Industrial Park, requiring receipt of a cash buy-out equivalent to the value of the native upland preserve.

Summary: Currently, a 0.99 acre Conservation Easement exists at the Whiteside Industrial Park as is described and required by Vegetation Permit No. V-290-01. The Whiteside Group, Inc. requests to terminate the Conservation Easement in exchange for a cash payment equal to the current value of the 0.99 acre area. A January 10, 2009 appraisal established the value of the preserve at \$85,000. This item was presented to the BCC on June 8, 2010. Staff was directed to further evaluate the request. Staff has since confirmed that, in its current setting in a parking lot of a commercial trucking facility, the easement area does not possess the habitat value it once did. Staff also found that, on May 22, 2008, staff recommended and the BCC approved a development order amendment, which deleted the requirement for the onsite preserve. The conservation easement should have been terminated at the time the development order was amended to be consistent with the amended site plan, which deleted the preserve. Therefore, this agenda item terminates the conservation easement for consistency with the amended development order for the site. District 6 (SF)

Continued on page 3)

Attachments:

1. Termination of Easement
2. Conservation Easement
3. Preserve Appraisal
4. Receipt from Buy-out
5. Approved Resolution for Whiteside Industrial Park
6. Approved Site Plan
7. Photos of current site conditions (3)

Recommended by: Richard E. Walby 8/3/10
Department Director Date

Approved by: [Signature] 8/10/10
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	—	—	—	—	—
Operating Costs	—	—	—	—	—
External Revenues	(85,000)	—	—	—	—
Program Income (County)	—	—	—	—	—
In-Kind Match (County)	—	—	—	—	—
NET FISCAL IMPACT	(85,000)	—	—	—	—
# ADDITIONAL FTE POSITIONS (Cumulative)	—	—	—	—	—

Is Item Included in Current Budget? Yes ___ No X

Budget Account No.: Fund ___ Department ___ Unit ___ Object ___

Reporting Category ___

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

Acceptance of funds is contingent on BCC's decision to approve. ULDC Article 14 provides payment to be made to the Natural Areas Fund.

C. Departmental Fiscal Review: SP

III. REVIEW COMMENTS

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

[Signature]
 OFMB
 JB
 8/4/10
 PM
 8/4/10

[Signature] 8/6/10
 Contract Development and Control

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

(Continued from page 1)

Background and Justification: On January 4, 2002, Pike Investment, LLC, executed and recorded a Conservation Easement on a 0.99 acre preserve within its industrial park property as a requirement of its vegetation removal permit pursuant to Article 14.C., Vegetation Protection and Preservation, ULDC. On May 25, 2004, in a Warranty Deed recorded in the Records of Palm Beach County, Florida at Book 17027 and Page 209, the Whiteside Group, Inc., purchased the industrial property and preserve from Pike Investments, LLC. Due to additional adjacent development, the preserve, which was originally located along a common border of two properties, became centrally located entirely within the Whiteside Industrial Park. On May 22, 2008, staff recommended and the BCC reviewed and approved resolution R-2008-0916 deleting the preserve. Although the modified Site Plan deleted the preserve, no action was taken to formally terminate the Conservation Easement over the preserve. The Whiteside Group proposes to pay the County \$85,000, the January 10, 2009 appraised value of the 0.99 acres of land preserve. The \$85,000 will be deposited into the Natural Areas Fund to be used for the acquisition and/or restoration of County-owned Natural Areas. Expenditures from the Natural Areas Fund will provide a greater environmental benefit to the natural resources of the County than would continued preservation of the subject 0.99 acres in what has come to be its current setting.

Attachment 1

This instrument prepared by:
BLAKE M. HARMON, ESQ.
Patterson & Harmon, P.A.
4701 North Federal Highway
Suite 480, Box A-6
Pompano Beach, Florida 33064

TERMINATION OF EASEMENT

THIS TERMINATION OF EASEMENT is executed this ___ day of _____, 2010, by **PALM BEACH COUNTY, a political subdivision of the State of Florida** (the "County"), whose mailing address is _____, and **THE WHITESIDE GROUP, INC., a Florida corporation** ("Whiteside"), whose mailing address is 8470 Belvedere Road, West Palm Beach, Florida 33411.

WHEREAS, on or about January 4, 2002, Pike Investments, LLC, a Florida limited liability company, granted to the County, in accordance with Section 704.06, Florida Statutes, a Conservation Easement in and over certain real property situate in Palm Beach County, Florida, as more particularly described on Exhibit "A" attached hereto (the "Property"), as created by instrument recorded January 4, 2002 in Official Record Book 13275, Page 1273 of the Public Records of Palm Beach County, Florida (the "Easement"); and

WHEREAS, Whiteside is the current fee simple owner of the Property; and

WHEREAS, at the request of Whiteside, the County has agreed to terminate the aforesaid Easement and to forever release the Property from said Easement.

NOW, THEREFORE, in consideration of the payment of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, the County and Whiteside hereby agree that the Property is hereby forever released from the Easement which is hereby terminated.

IN WITNESS WHEREOF, the County and Whiteside have executed this Termination of Easement on the day and year first indicated hereinabove.


ATTEST:
SHARON BOCK, Clerk

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

By: _____
BURT AARONSON, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
County Attorney

Signed, sealed and delivered
in the presence of:

Kelly Hecker
Printed Name: Kelly Hecker

Owen Britow
Printed Name OWEN BRISTOW

THE WHITESIDE GROUP, INC., a Florida corporation

By: Darrell Whiteside Vice Pres.
DARRELL WHITESIDE, Vice President

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of December, 2008, by
DARRELL WHITESIDE, as Vice President of **THE WHITESIDE GROUP, INC., a Florida corporation.**

Judy B. Boyle (SEAL)
Notary Public

My Commission Expires:

Personally known OR
Produced Identification _____
Type of Identification Produced:

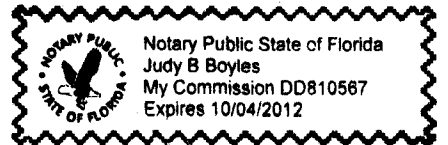


EXHIBIT "A"
CONSERVATION EASEMENT
LEGAL DESCRIPTION

Tract 11, Block 6, less the West 5 acres thereof, "PALM BEACH FARMS COMPANY PLAT NO. 3", according to the plat thereof as recorded in Plat Book 2, Page 45, of the Public Records of Palm Beach County, Florida. Said parcel being more particularly described as follows:

COMMENCING at the Northeast corner of Section 30, Township 43 South, Range 42 East; thence South $46^{\circ}23'46''$ East a distance of 8767.35 feet to a point of Intersection of the centerline of Pike Road and the North line of Block 6, "PALM BEACH FARMS COMPANY PLAT NO. 3"; thence along the centerline of Pike Road South $00^{\circ}58'35''$ East, a distance of 659.98 feet to an intersection with the Westerly prolongation of the North line of Tract 10, Block 6, "PALM BEACH FARMS COMPANY PLAT NO. 3"; thence departing said centerline of Pike Road North $88^{\circ}58'34''$ East along the aforementioned North line of Tract 10 and its Westerly prolongation, a distance of 675.20 feet to the Northwest corner of Tract 11, Block 6, "PALM BEACH FARMS COMPANY PLAT NO. 3"; thence continue North $88^{\circ}58'34''$ East along the North line of Tract 11, Block 6, "PALM BEACH FARMS COMPANY PLAT NO. 3" for a distance of 330.11 feet to the Northeast corner of the parent tract of this easement parcel said parent tract being the East 10 acres of Tract 11; thence continue North $88^{\circ}58'34''$ East along the North line of said Tract 11, a distance of 330.09 feet; thence South $01^{\circ}01'28''$ East a distance of 85.29 feet to a point on a non-tangent curve being concave to the Southwest having a radius of 57.77 feet and a radial line which bears South $0^{\circ}46'22''$ West said point being the POINT OF BEGINNING; thence continuing Easterly, Southeasterly and Southerly along said curve through a central angle of $24^{\circ}36'22''$ for an arc distance of 125.64 feet to a point of reverse curvature with a curve being concave to the East having a radius of 48.85 feet; thence continuing Southerly along said curve through a central angle of $97^{\circ}53'30''$ for an arc distance of 83.46 feet to a point of reverse curvature with a curve being concave to the Southwest having a radius of 59.10 feet; thence continuing Southeasterly along said curve through a central angle of $41^{\circ}42'59''$ for an arc distance of 43.03 feet to a point of compound curvature with a curve being concave to the Northwest having a radius of 91.31 feet; thence continuing Southerly, Southwesterly and Westerly along said curve through a central angle of $134^{\circ}45'39''$ for an arc distance of 214.76 feet to a point of compound curvature with a curve being concave to the Northeast having a radius of 52.50 feet; thence continuing Northwesterly and Northerly along said curve through a central angle of $125^{\circ}27'54''$ for an arc distance of 114.96 feet to a point of reverse curvature with a curve being concave to the West having a radius of 17.52 feet; thence continuing Northerly and Northwesterly along said curve through a central angle of $136^{\circ}42'38''$ for an arc distance of 41.80 feet to a point of reverse curvature with a curve being concave to the East having a radius of 80.00 feet; thence continuing northwesterly and northerly along said curve through a central angle of $114^{\circ}57'20''$ for an arc distance of 160.51 feet to a point of compound curvature with a curve being concave to the southeast having a radius of 200.68 feet; thence continuing northeasterly along said curve through a central angle of $28^{\circ}18'40''$ for an arc distance of 99.16 feet to a point of compound curvature with a curve being concave to the south having a radius of 57.77 feet; thence continuing easterly along said curve through a central angle of $32^{\circ}25'19''$ for an arc distance of 32.69 feet to the POINT OF BEGINNING.
Containing 0.99 acres, more or less.

Pike Investments, LLC
7227 7th Pl. North
West Palm Beach, FL
33411

01/04/2002 14:01:23 20020005071
OR BK 13275 PG 1273
Palm Beach County, Florida

CONSERVATION EASEMENT

STATE OF FLORIDA
COUNTY OF PALM BEACH

KNOW ALL PERSONS BY THESE PRESENT THAT as a condition of the approval by Palm Beach County of the Vegetation Removal Permit, and pursuant to Palm Beach County Unified Land Development Code Section 9.5.F.2.c., Pike Investments, LLC ("Grantor"), has, for good and valuable consideration, the receipt of which is acknowledged, granted to Palm Beach County, a political subdivision of the State of Florida ("Grantee"), a Conservation Easement in accordance with Section 704.06, Florida Statutes, in and over the real property in Palm Beach County, Florida, as set forth in the legal description attached hereto as Exhibit A (the "Property").

As used herein, the term Grantor shall include any successor or assignee of the Grantor, and the term Grantee shall include any successor or assignee of the Grantee.

It is the purpose and intent of this Conservation Easement to assure that the Property will be retained and maintained forever predominantly in the natural vegetative and hydrologic condition existing at the time of execution of this Conservation Easement, which shall mean that the following activities are prohibited on the Property:

1. Construction or placement of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
2. Dumping or placing of soil or other substances or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;
3. Removal, destruction, cutting, trimming, mowing, alteration or biocide spraying of trees, shrubs, or other vegetation; with exception to the removal of nuisance and exotic plant species as may be required or permitted by law, ordinance, or other government approval;
4. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in any manner which affects the surface or sub-surface;
5. Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;
6. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation;
7. Acts or uses detrimental to such aforementioned retention and maintenance of land or water areas with the exception of those passive recreational activities as may be defined in the Preserve Management Plan as approved by the County which is attached and incorporated herein as Exhibit B; and
8. Acts or uses detrimental to the preservation of any features or aspects of the property having historical, archaeological or cultural significance.

It is understood that the granting of this Conservation Easement entitles the Grantee or its authorized representatives to enter the Property in a reasonable manner and at reasonable times to assure compliance.

The Grantor on behalf of itself and its successors or assigns hereby agrees to bear all costs and liability relating to the maintenance of the Property in the natural

vegetative and hydrologic conditions as existing at the time of execution of this Conservation Easement. The Conservation Easement hereby granted and the obligation to retain and maintain the Property forever predominantly in the vegetative and hydrologic condition as herein specified shall run with the land and shall be binding upon the Grantor and its successors and assigns, and shall inure to the benefit of the Grantee and its successors and assigns.

Venue for any actions in connection with this Conservation Easement shall be in Palm Beach County, Florida. The prevailing party shall be entitled to recover reasonable attorney's fees and costs in the trial and appellate courts, in addition to the cost of restoring the land to the natural vegetative and hydrologic conditions as required and stated in the approved Property, if the prevailing party is the Grantee. These remedies are in addition to any other remedy, fine or penalty which may be applicable under Chapters 373 and 403, Florida Statutes, or Palm Beach County ordinance.

Any forbearance on behalf of the Grantee to exercise its rights in the event of the failure of Grantor to comply with the provisions of this Conservation Easement shall not be deemed or construed to be a waiver of the Grantee's rights hereunder in the event of any subsequent failure by the Grantor to comply.

The Grantor hereby represents that the Grantor is seized of the Property in fee simple and has good right and title to grant and convey this Conservation Easement to the Grantee and that the Property is free and clear of any encumbrances.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal this 4th day of Jan, 2002

Signed, sealed, and delivered in our presence of:

Sandra Lynch
WITNESS

Sandra J. Davis
WITNESS

GRANTOR:

BY [Signature]

Title: Operating Manager

Authorized Representative
Pike Investments, LLC

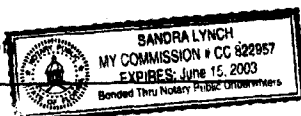
ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me this 4th day of Jan, 2002 (date), by George Spauling (name of officer or agent), of Pike Investments, LLC (name of corporation), a LLC (State or place of incorporation) corporation, on behalf of the corporation s/he is personally known to me, produced a valid driver's license and (did/did not) take an oath.

(Seal)

Sandra Lynch
Notary Public
State of Florida

My Commission Expires:



**CONSERVATION EASEMENT
SHEET 1 OF 2 - LEGAL DESCRIPTION**

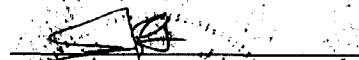
LEGAL DESCRIPTION

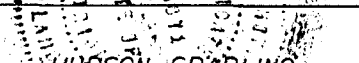
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Containing 0.99 acres, more or less

I HEREBY CERTIFY THAT THE ATTACHED SKETCH AND THE ABOVE LEGAL DESCRIPTION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THE ATTACHED EASEMENT SKETCH AND ABOVE LEGAL DESCRIPTION MEET THE INTENT OF THE MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO SECTION 472.027, FLORIDA STATUTES AND ADOPTED IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, EFFECTIVE SEPTEMBER 1, 1981.

NOT VALID UNLESS EMBOSSED WITH SURVEYORS SEAL.


JAMES F. NOT
PROFESSIONAL SURVEYOR AND MAPPER
NO. 8871, STATE OF FLORIDA
EXP. NO. 8598


HUDSON-SPARLING


CROSSROADS
ENGINEERING & SURVEYING, INC.
1402 ROYAL PALM BEACH BLVD., BLDG 500
ROYAL PALM BEACH, FLORIDA 33411
PH 561-753-9723 FAX 561-753-9724 EB-7077

**CONSERVATION EASEMENT
LEGAL DESCRIPTION**

CRES No. 08105	01/02/02	1 OF 2
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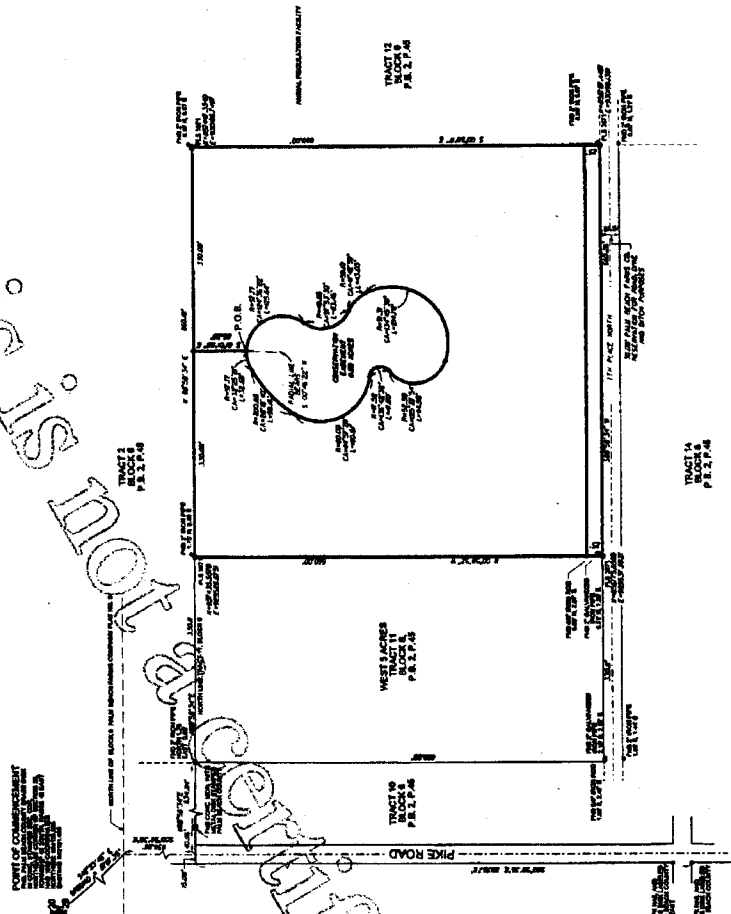
CONSERVATION EASEMENT SKETCH

SHEET 2 OF 2

This is not a certified document

NOTES

1. BEARINGS SHOWN ARE GRID BEARINGS BASED ON NAD83 COORDINATE SYSTEM.
2. THIS IS NOT A SURVEY.
3. THIS SKETCH IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A SURVEY. IT IS NOT TO BE USED FOR ANY LEGAL PURPOSES WITHOUT THE ASSISTANCE OF A LICENSED SURVEYOR.
4. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
5. ALL BEARINGS ARE GRID BEARINGS.
6. ALL DISTANCES ARE TO THE CENTER OF THE LINE UNLESS OTHERWISE NOTED.
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ALTAIR
APPRAISAL GROUP
Appraisers • Consultants • Market Analysis

January 30, 2009

Mr. Clarence Whiteside
The Whiteside Group, Inc.
8470 Belvedere Road
West Palm Beach, Florida 33411

Re: Valuation of a 43,560 square foot wet land preservation tract, identified as Tract C Preservation Area and located north of 7th Place North, East of Pike Road, West Palm Beach, Florida

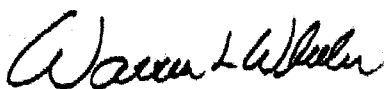
Dear Mr. Whiteside:

In accordance with your request we have appraised the referenced property. We are providing the relevant value by letter rather than issuing a final narrative appraisal report. The valuation considers the "as is" value of the subject property.

As a result of our investigation into those matters which affect market value, and by virtue of our experience and training, we have formed the opinion that the market value of the fee simple interest in the subject property "as is" as of January 15, 2009, is \$85,000.

Only upon a request from you will complete a final narrative appraisal report of the aforementioned property. The report, if requested will detail the information utilized and conclusions reached in arriving at the final market value estimate for the subject, as well as outlining the general assumptions and special limiting conditions typical of this type of assignment.

Respectfully submitted,
Altair Appraisal Group, Inc.



Warren L Wheeler
President
State Certified General RE Appraiser
No. RZ953

2141 Blount Road
Pompano Beach, Florida 33069
Office: 954.934.0190 • Fax: 954.337.0534



**PALM BEACH COUNTY
DEPARTMENT OF
ENVIRONMENTAL RESOURCES MANAGEMENT**

REVENUE RECEIPT

RECEIPT #: 5008311
DATE: 4/6/2010

RECEIVED FROM: FIFTH THIRD BANK
CHECK #/CASH: 16320632
AMOUNT: \$85,000.00

RECEIVED FOR: Easement of Whiteside Property

ACCOUNTING DISTRIBUTION:

TYPE	PERMIT NUMBER	FUND	AGENCY	UNIT	REV	SOURCE	AMOUNT
Cash in lieu of Preservation - Contribution							
Easement of Whitesi	1226	380		3005	6600		\$85,000.00
TOTAL RECEIVED:							\$85,000.00

RECEIVED BY _____

RECEIVED BY DIVISION _____

Signature

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT

CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.

73-119
421

16320632



FIFTH THIRD BANK

CASHIER'S CHECK

March 25, 2010

Pay to the

Order of: Palm Beach County Board of County Commissioners***

\$*****85,000.00

Amount: EIGHTY FIVE THOUSAND 00/100 US DOLLARS

Drawn on: Fifth Third Bank, Kentucky, Inc
Lexington, KY

Transaction Number: 442921449
Cost Center: 0329

Memo: Whiteside Group
Purchased by: Fifth Third Bank

Authorized Signature

The purchase of a Surety Bond may be required before any Cashier's Check on this bank will be replaced or refunded in the event it is lost, misplaced, or stolen.

⑈ 16320632⑈ ⑆042101190⑆ 0082510206⑈

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO SEE THE MARK WHEN CHECKING THE ENDORSEMENTS.

KEESEE, LISA

From: Reid, Kyle
Sent: Thursday, March 25, 2010 2:44 PM
To: KEESEE, LISA
Cc: Andrzejewski, Stanley; 'J. Dryer'; Wright, Denise
Subject: FW: \$85,000 check

Lisa,
Please mail check to Bob Kraus at address listed below. Please detail that it is for the easement of Whiteside property.
Thanks!

Cashier check presentation - contribution

Kyle Reid
Fifth Third Bank
Special Assets Group
999 Vanderbilt Beach Road B9997B
Naples, FL 34108
Office Phone #239.449.7031
Fax #239.449.7102

1226-380-3005-6600-

-----Original Message-----

From: Andrzejewski, Stanley
Sent: Wednesday, March 24, 2010 3:19 PM
To: Reid, Kyle
Subject: FW: \$85,000 check

This is for Whiteside. STan

-----Original Message-----

From: J. Dryer [mailto:jd@labtocompany.com]
Sent: Wednesday, March 24, 2010 2:57 PM
To: Andrzejewski, Stanley
Cc: Clarence L. Whiteside; Dave Pain
Subject: \$85,000 check

Stan: the following is now confirmed.

The check is made payable to "Palm Beach County Board of County Commissioners."

Mail the check to:

RECEIVED
APR - 5 2010

ENVIRONMENTAL RESOURCES MANAGEMENT

RESOLUTION NO. R-2008- 0916

RESOLUTION APPROVING ZONING APPLICATION DOA-2007-1005
(CONTROL NUMBER 1998-062)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF THE WHITESIDE GROUP
BY KILDAY & ASSOCIATES, INC., AGENT
(WHITESIDE INDUSTRIAL PARK)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, and the Palm Beach County Unified Land Development Code, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA-2007-1005 was presented to the Board of County Commissioners at a public hearing conducted on May 22, 2008; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application DOADOA-2007-01005, the application of THE WHITESIDE GROUP, by Kilday & Associates, Inc., agent, for a Development Order Amendment to modify a condition of approval (Building and Site Design), re-start the commencement clock, and approve a chain link fence within the perimeter buffer on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on May 22, 2008, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

The motion was seconded by Commissioner Jeff Koons and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	¥	Aye
Jeff Koons, Vice Chair	¥	Aye
Karen T. Marcus	¥	Aye
Robert J. Kanjian	¥	Aye
Mary McCarty	¥	Absent
Burt Aaronson	¥	Aye
Jess R. Santamaria	¥	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on May 22, 2008.

Filed with the Clerk of the Board of County Commissioners on 10 day of June, 2008.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK &
COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

EXHIBIT A
LEGAL DESCRIPTION

**WHITESIDE INDUSTRIAL PARK
LEGAL DESCRIPTION:**

TRACTS A, B AND C OF THE HUDSON-SPARLING PLAT AS RECORDED IN PLAT BOOK 98, PAGES 68 AND 69 IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 9.62 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

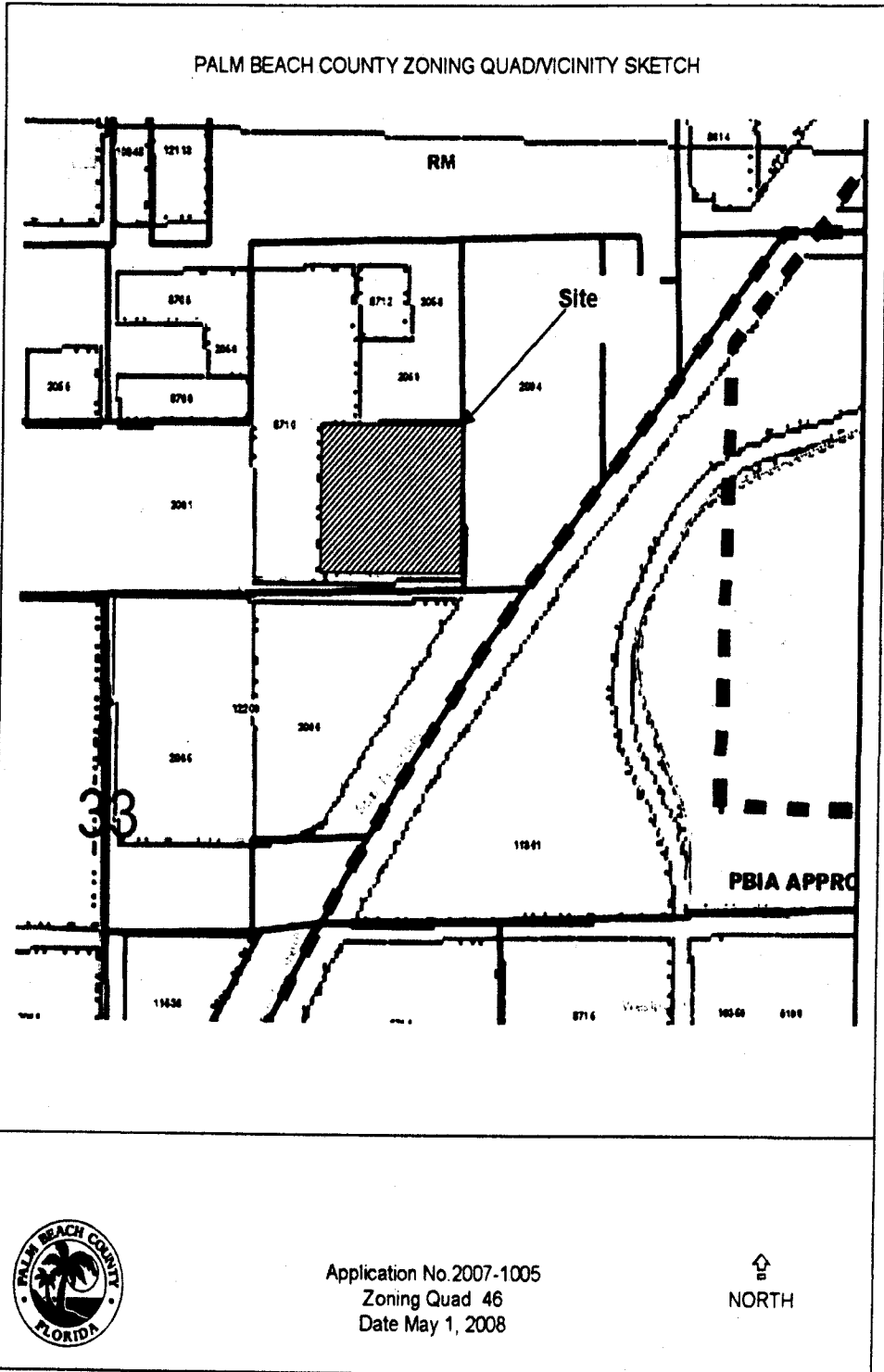


EXHIBIT C
CONDITIONS OF APPROVAL

ALL PETITIONS

1. Previous All Petitions Condition of Resolution R-2005-003 (Control 1998-062 which currently states:

All Voluntary Commitments contained in Resolution R-99-99, Petition Z98-062, and Resolution 2002-0498, Petition 1998-062, shall remain in full force and effect. (ONGOING: ZONING - Zoning)

Is hereby amended to read

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2005-287 (Control 1998-062), R-2002-498 (Control 1998-062), R-1999-099 (Control 1998-062), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous Condition ALL PETITIONS 2 of Resolution R-99-99 (Control 1998-062) which currently states:

Development of the site is limited to the site design as approved by the Zoning Commission. The approved site plan is dated May 24, 2005. All modifications must be approved by the Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

Is hereby amended to read:

Development of the site is limited to the uses approved by the Board of County Commissioners. The approved Preliminary Site plan is dated February 25, 2008. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

3. Prior to final approval by the Development Review Officer (DRO), the Final site plan shall be prepared to notate that the existing Contractor's Storage Yard shall cease operation with the commencement of Phase II. (DRO/ONGOING: ZONING/MONITORING-Zoning)
4. Prior to final approval by the Development Review Officer (DRO), the applicant/property owner shall file an administrative abandonment for the Class B Conditional Use for the Chipping and Mulching use. (DRO:ZONING-Zoning)
5. Based on Article 2.E of the Unified Land Development Code, this development order meets the requirements to receive a new three (3) year review date from the date of approval of this resolution. (ONGOING: MONITORING-Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for all the buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

BUILDING AND SITE DESIGN

1. Previous Volunteer Commitment A.1 of Resolution R-99-099 Control 98-062, which currently states:

Total gross floor area shall be limited to a maximum of 23,250 square feet.
(DRC:ZONING)

Is hereby deleted [Reason: Addressed by All Petitions no.2]

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a. Building Permits for more than 15,100 square feet of Light Industrial shall not be issued until the Property Owner makes a payment of \$202,507.20 to Palm Beach County for the construction of a traffic signal at the intersection of Belvedere Road and Pike Road which will be incorporated into a scheduled road construction project at this intersection improvement consistent with Article 12.B.2.F.1. (BLDG PERMIT: MONITORING-Eng)
 - b. No building permits for the site shall be issued after December 31, 2010. A time extension for this condition may be approved by the County Engineer based on an approved Traffic Study, which complies with the mandatory Traffic Performance Standards in place at the time of the request. (DATE: MONITORING – Eng)
2. The Property owner shall construct a left turn lane east approach on 7th Place North at Pike Rd. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations, acquisition of any additional required right-of-way and required drainage.
 - a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
 - b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy (CO: MONITORING-Eng)

ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING: ERM-ERM)

LANDSCAPING

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation:
 - a. palm heights: twelve (12) feet clear trunk;
 - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
 - c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE Zoning)
3. Previous Zoning-Landscaping Condition no. 1 which currently states:

A minimum eight (8) foot high opaque fence shall be installed within the landscape buffer along the north, east and west property lines. (Previous Condition Zoning-Landscaping 1 of R-2005-003, Control 1998-062) (DRO: LANDSCAPE - Zoning)

Is hereby amended to read:

In addition to the code requirements, landscaping and buffer width along the north, east and west property lines shall be upgraded to include:

- a. a minimum ten (10) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. the existing six (6) foot non-vinyl coated chain link high fence shall be allowed to remain. Future replacement of this fence shall comply to ULDC requirements, as amended;
- c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- d. a three (3) foot high hedge at installation. Height of the hedge shall be maintained at six (6) feet at maturity and in perpetuity; and,
- e. installation of this buffer requirements shall be completed prior to the issuance of the first building permit. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF 7TH PLACE NORTH)

4. In addition to the code requirements, landscaping along the south property line shall be upgraded to include:
 - a. installation of this buffer requirement shall be completed prior to the issuance of the first building permit of Phase 1;
 - b. the existing three (3) foot high hedge adjacent to the existing chain link fence may be allowed to be utilized to satisfy the code required hedge provided this hedge is six (6) feet in height at the time issuance of the first building permit for Phase 1.
(BLDG PERMIT: LANDSCAPE - Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed fifteen (15) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning) (Previous Condition Lighting no. 1 of Resolution R-2005-003, Control 1998-062)

2. All outdoor, freestanding lighting fixtures shall be setback a minimum of twenty-five (25) feet from the east property line. (Previous Condition Lighting no. 2 of Resolution R-2005-003, Control 1998-062) (ONGOING: BLDG - Zoning) Is hereby deleted [Reason: Photometrics are now required]
3. All outdoor lighting shall be extinguished no later than 9:00 p.m. excluding security lighting only. (ONGOING: CODE ENF - Zoning) (Previous Condition Lighting no. 3 of Resolution R-2005-003, Control 1998-062)
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning) (Previous Condition Lighting no. 4 of Resolution R-2005-003, Control 1998-062)

SIGNS

1. Freestanding signs fronting on 7th Place North shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point -fifteen (15) feet;
 - b. maximum sign face area per side - one hundred (100) square feet;
 - c. maximum number of signs - one (1);
 - d. style - monument style only;
 - e. location - 7th Place North (BLDG PERMIT: BLDG - Zoning)

USE LIMITATIONS

1. Hours of operation for the Chipping and Mulching shall be limited to 8 a.m. to 6 p.m. daily. (Previous Use Limitation no. 1 of Resolution R-2005-003, Control 1998-062) (ONGOING: CODE ENF - Zoning) Is hereby deleted
2. The storage piles from the Chipping and Mulching activity shall be limited to a maximum of ten (10) feet in height. (Previous Use Limitation no. 2 of Resolution R-2005-003, Control 1998-062) (ONGOING: CODE ENF - Zoning) Is hereby deleted. [Reason: This use has been eliminated by current DOA]

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Zoning Commission for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning) (Previous Condition Compliance no. 1 of Resolution R-2005-003, Control 1998-062)
2. Previous Condition Compliance no. 2 of Resolution R-2005-003, Control 1998-062) which currently states:

Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval;

and/or

- c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: MONITORING - Zoning)

Is hereby amended to read:

Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

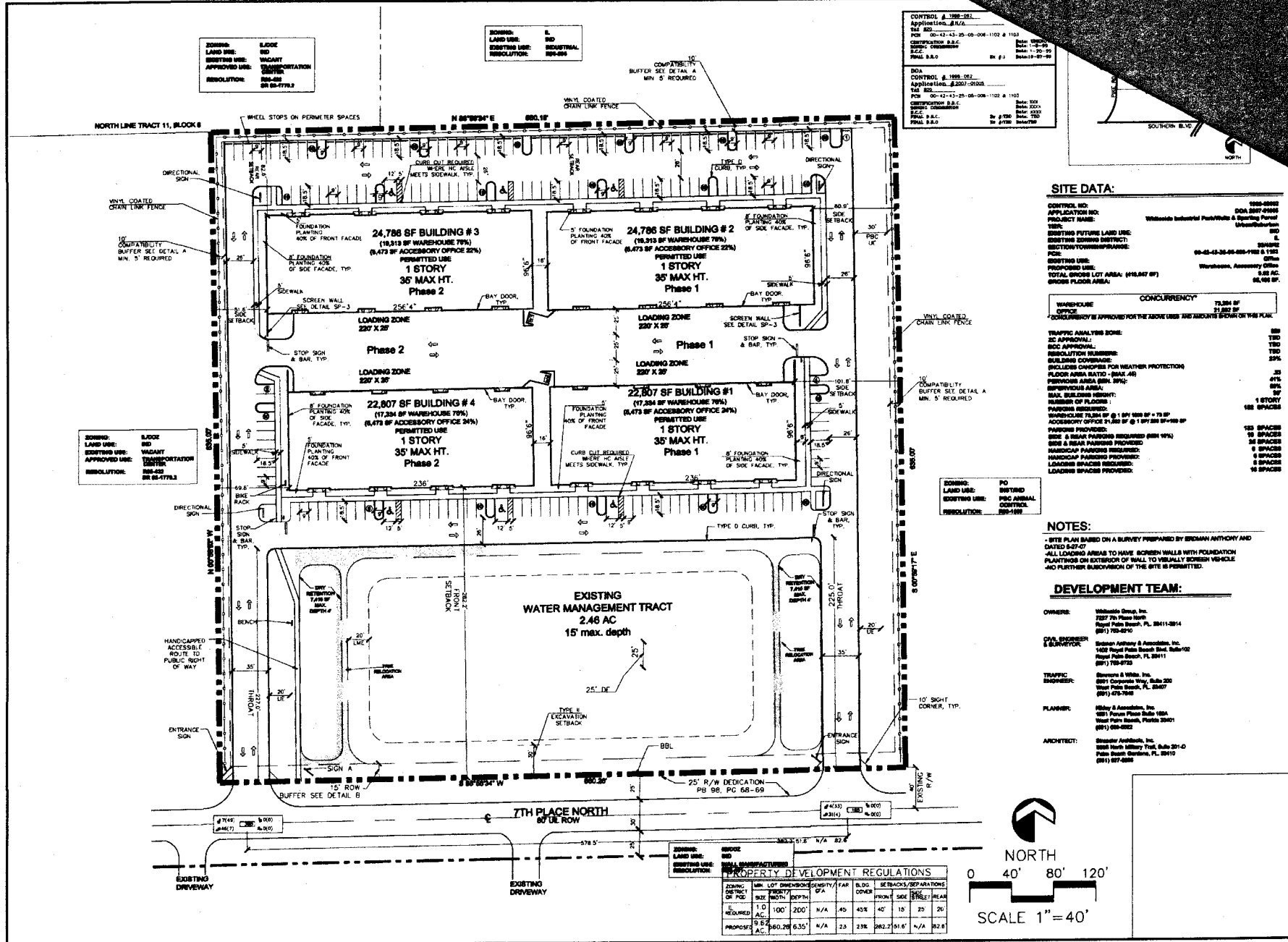
Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)

This resolution is effective when filed with the Clerk of the Board of County

Commissioners.

Attachment 6



CONTROL # 199-281
 Application, B.N.A.
 TAG NO. 00-42-43-25-08-008-1102 & 1103
 COUNTY COMMISSION
 FINAL S.B.O. 08-19-07-09

DOA CONTROL # 199-053
 Application, E.2007-01008
 TAG NO. 00-42-43-25-08-008-1102 & 1103
 COUNTY COMMISSION
 FINAL S.B.O. 08-19-07-09

SITE DATA:

WAREHOUSE OFFICE	CONCURRENCY	TRUCK SPACES
24,786 SF	17,384 SF	10 SPACES
24,786 SF	17,384 SF	10 SPACES
22,807 SF	17,384 SF	10 SPACES
22,807 SF	17,384 SF	10 SPACES

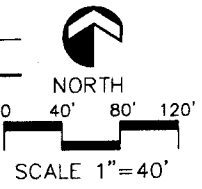
TRAFFIC ANALYSIS DONE: YES
 BDC APPROVAL: YES
 RESOLUTION NUMBER: 2006-01
 BUILDING COVERAGE: 23%
 FLOOD AREA RATED - (MAX. AG): 0%
 PERVIOUS AREA (MIN. SP): 0%
 PERVIOUS AREA (MAX. SP): 0%
 MAX. BUILDING HEIGHT: 35' MAX HT.
 NUMBER OF FLOORS: 1 STORY
 18 SPACES
 PARKING PROVIDED: 18 SPACES
 SIDE & REAR PARKING PROVIDED (MIN. 9%): 18 SPACES
 HANDICAP PARKING PROVIDED: 6 SPACES
 LOADING SPACES PROVIDED: 8 SPACES
 16 SPACES

NOTES:

- SITE PLAN BASED ON A SURVEY PREPARED BY ERDMAN ANTHONY AND DATED 5-27-07
 ALL LOADING AREAS TO HAVE SCREEN WALLS WITH FOUNDATION PLANTING ON EXTENSION OF WALL TO VISUALLY SCREEN VEHICLE AND FURTHER SUBDIVISION OF THE SITE IS PERMITTED.

DEVELOPMENT TEAM:

- OWNERS:** Whiteside Creek, Inc.
 2227 7th Place North
 Royal Palm Beach, FL 33411-2814
 (561) 750-9100
- CIVIL ENGINEER & SURVEYOR:** Southern Architects & Associates, Inc.
 1422 Royal Palm Beach Blvd. Suite 102
 Royal Palm Beach, FL 33411
 (561) 750-0725
- TRAFFIC ENGINEER:** Stevens & White, Inc.
 2601 Corporate Way, Suite 200
 West Palm Beach, FL 33407
 (561) 478-7648
- PLANNER:** Wiley & Associates, Inc.
 1621 Pines Plaza Suite 100
 West Palm Beach, Florida 33411
 (561) 488-8822
- ARCHITECT:** Sheehy Architects, Inc.
 1825 North Military Trail, Suite 271-D
 Palm Beach Gardens, FL 33410
 (561) 627-0268



PHASE 2 SITE PLAN
 Palm Beach County, Florida
Whiteside Industrial Park
 (fka Weitz & Sparling Parcel)

Scale 1" = 40'
 Date 7/18/07
 Design By LAEK
 Drawn By LAEK
 Check By CWB
 File No. 654.00
 Drawing No. 07-10

- REVISIONS / SUBMISSIONS**
- ▲ 5.29.07 DOA SUBMITTAL LAK
 - ▲ 6.20.07 CIVIL INTERIM
 - ▲ 6.20.07 ARCHIT. LAK
 - ▲ 6.20.07 CIVIL LAK
 - ▲ 6.20.07 CIVIL LAK

Site Plan



Whiteside Parcel Aerial Photo



Whiteside Parcel Aerial (east looking west view)



Whiteside Parcel Aerial (west looking east view)