

**FLORIDA LAND AND WATER ADJUDICATORY COMMISSION
AGENDA**

AMENDED

July 31, 2007

1. **Approval of the minutes of the meeting held February 27, 2007.**
2. **Consideration of Hernando County's Answer and Motion to Dismiss an Amended Appeal of a Development Order filed by Seven Hills, Inc., American Realty Development, LLC, and Madison Reserve, Ltd. (FLWAC Case No. APP-07-009).**

On April 16, 2007, Seven Hills, Inc., American Realty Development, LLC, and Madison Reserve, Ltd., filed a Notice and Petition for Appeal of a denial by Hernando County of an application for a Notice of Proposed Change to the Seven Hills Development of Regional Impact (DRI) seeking a non-substantial deviation amendment to the Development Order for the previously approved Seven Hills DRI and the application to rezone certain property. Petitioners filed an amended Petition for Appeal on April 26, 2007. Petitioners sought to extend the Seven Hills DRI build-out date, change a 9.52 acre parcel of undeveloped land from a 150 unit Life Care Center to Life Care Center or Multi-Family, and rezone the property to PDP(MF)/Planned Development Project (Multifamily) with a Special Use for a Life Care Facility. Hernando County filed an Answer, Affirmative Defenses and Motion to Dismiss on May 23, 2007, arguing that Petitioners have failed to exhaust administrative remedies and requesting dismissal of the Petition on the grounds that the Board of County Commissioner's action was not sufficiently final. Petitioners filed both a Response to Hernando County's Motion to Dismiss and Hernando County's Affirmative Defenses on June 12, 2007. Hernando County filed a Notice of Filing Verbatim Transcript of the Hearing Below on July 10, 2007.

RECOMMENDATION:

Authorize the Secretary to enter the Draft Order denying the motion to dismiss and transmitting the case to the Division of Administrative Hearings for further proceedings.

BACK-UP:

Seven Hills, Inc., et al., Amended Petition for Appeal received on April 26, 2007.

Hernando County's Answer, Affirmative Defenses and Motion to Dismiss received on May 23, 2007.

Seven Hills, Inc., et al., Response to Hernando County's Motion to Dismiss received on June 12, 2007.

Seven Hills, Inc., et al., Response to Hernando County's Affirmative Defenses received on June 12, 2007.

Hernando County's Notice of Filing Verbatim Transcript of the Hearing Below received on July 10, 2007.

Draft Order Denying Motion to Dismiss and Transmitting Proceeding to the Division of Administrative Hearings for Further Proceedings.

3. **Consideration of a Recommended Order issued by the Division of Administrative Hearings in the case of Department of Community Affairs vs. City of Marathon and Banana Bay of Marathon, Inc. (DOAH Case No. 00-5128GM; FLWAC Case No. APP-00-002).**

On December 21, 2000, the Department of Community Affairs (DCA) filed a Notice and Petition for Appeal of a development order (Resolution PC00-09-04) issued by the City of Marathon. The development order authorized Banana Bay of Marathon, Inc., to add twelve permanent transient dwelling units on the upland portion of its property in return for Banana Bay of Marathon, Inc., agreeing to restrict the use of twelve of its thirty adjacent boat slips to vessels without plumbing facilities and cable television access. DCA alleges that the development order is inconsistent with various provisions of the comprehensive plan and land development regulations, and Chapters 163 and 380, Florida Statutes.

The subject appeal was forwarded to the Division of Administrative Hearings (DOAH) for assignment of an Administrative Law Judge and further proceedings on February 13, 2001. An administrative hearing was conducted in Marathon on June 7 and 8, 2001, and a Recommended Order was issued on December 7, 2001. The DOAH Administrative Law Judge recommends the Commission enter a final order denying the request of Banana Bay of Marathon, Inc., to approve the transfer of twelve slips to twelve rooms in a motel on the subject property. On December 24, 2001, Banana Bay of Marathon, Inc., filed exceptions to the DOAH Recommended Order and on January 11, 2002, the DCA filed a Response to Exceptions.

The proceeding was held in abeyance pursuant to a joint stipulation of the parties.

RECOMMENDATION:

Authorize the Secretary to enter the Draft Final Order denying the transfer of development rights from boat slips to uplands.

BACK-UP:

DCA's Notice and Petition for Appeal received on December 21, 2000.

DOAH's Recommended Order issued on December 7, 2001.

Banana Bay of Marathon's Exceptions to the Recommended Order received on December 24, 2001.

DCA's Response to Exceptions received on January 11, 2002.

Draft Final Order.

4. Consideration of an Amended Petition to Establish the Twin Creeks Community Development District in St. Johns County, Florida. Petitioner: EH/Transeastern, LLC. (DOAH Case No. 05-4017; FLWAC Case No. CDD-05-015).

On October 13, 2005, EH/Transeastern, LLC, submitted a petition to establish the Twin Creeks Community Development District within unincorporated St. Johns County, Florida. (Amended exhibits were submitted to the Commission on October 24, 2005, and at the administrative hearing conducted on February 13, 2006.) The land area to be served by the District comprises approximately 3,050 acres. The site is generally located south of Durbin Creek, west of U.S. 1, east of Interstate 95, and on both sides of County Road 210 in St. Johns County, Florida. There are no parcels within the external boundaries of the proposed District which are to be excluded from the District. The Petitioner has obtained written consent to establish the District from the landowners of one hundred percent (100%) of the non-governmental real property located within the proposed District. The development plan for the proposed lands within the District includes the construction of approximately 5,000 units of single family detached units, single family attached units, multi-family housing along with 900,000 square feet of commercial mixed and 2,000,000 square feet of flexible industrial use space. Additional development plans include a 175 room hotel and a multiplex movie center. The District, if established, plans to finance certain master infrastructure improvements within the District boundaries. The improvements include complete construction of the basic infrastructure connecting and serving neighborhoods, including but not limited to: clearing, earthwork, water, sewer, and reclaimed utilities, internal roadways, and sodding/grassing. Master infrastructure also includes a community recreation center. Also included will be stormwater management facilities consisting of treatment ponds, outfalls, land to construct the retention and compensating storage areas, and wetland mitigation to serve the District in accordance with permitting agencies. Other District improvements include school facilities and substantial off-site improvements related to County Road 210 and US 1. All of the land in the proposed District is part of the Twin Creeks Development of Regional Impact (DRI).

Upon request of the Secretary, the Northeast Florida Regional Council reviewed the petition from the standpoint of their programs and responsibilities, and the requirements of section 190.005(1)(e), F.S. The Regional Council submitted a comment letter on November 16, 2005.

Upon request of the Secretary, the Department of Community Affairs (DCA) reviewed the petition from the standpoint of their programs and responsibilities, and the requirements of section 190.005(1)(e), F.S. The DCA submitted a comment letter on November 17, 2005, finding no potential inconsistency with Chapter 163 and 380, F.S. In addition, the DCA

determined the proposed land uses within the CDD development are consistent with the St. Johns County Comprehensive Plan and the Twin Creeks DRI.

Pursuant to Chapter 190, F.S., a local public hearing was conducted by the Division of Administrative Hearings (DOAH) on February 13, 2006, in St. Johns County, Florida. The DOAH Administrative Law Judge filed a Report with the Commission on March 31, 2006.

Pursuant to Chapter 120, F.S., notices of proposed rulemaking were published in the *Florida Administrative Weekly*. No public hearings were requested and no written comments were received as a result of the notices.

Recommendation:

Approve the amended petition to establish the Twin Creeks Community Development District and authorize the Secretary to file for final rule adoption.

Back-Up:

Petitioner's petition received October 13, 2005, and amended October 24, 2005, and at hearing on February 13, 2006.

Northeast Florida Regional Council's comment letter received November 16, 2005.

DCA's comment letter received November 17, 2005.

DOAH's Report received March 31, 2006.

Final rulemaking package.