

**PALM BEACH COUNTY
ZONING COMMISSION**
THURSDAY, June 4, 2009

MINUTES OF THE MEETING

The Zoning Commission met on the 1st Floor of Vista Center, 2300 N. Jog Road, West Palm Beach, FL 33411.

Members Present:

William F. Anderson, Chairman
Sherry Hyman, Vice Chair
Al Zucaro, Commissioner
Alex Brumfield, III, Commissioner
Allen Kaplan, Commissioner
Joanne Davis, Commissioner
Sheri Scarborough, Commissioner
Kelley Armitage, Alternate Commissioner

County Staff Present:

Robert Banks, Assistant County Attorney
Jon MacGillis, Zoning Director
Wendy Hernandez, Zoning Manager
Robert Kraus, ERM
Joanne Koerner, Land Development
Ken Rogers, Director Land Development
Sussan Gash, Planning Division
Kenny Wilson, Health Department
Nick Uhren, Traffic Division
Michael Owens, School Board
Autumn Sorrow, Senior Site Planner, Zoning
Ron Sullivan, Senior Site Planner, Zoning
Carrie Rechenmacher, Senior Site Planner, Zoning
Carol Glasser, Site Planner II, Zoning
Ora Owensby, Site Planner II, Zoning
Anthony Wint, Site Planner II, Zoning
Joyce Lawrence, Site Planner II, Zoning
Andrea Harper, Site Planner II, Zoning
Donna Adelsperger, Site Planner I, Zoning
Zona Case, Zoning Technician
Dorine Kelley, Customer Relations Manager
Eileen Platts, Secretary, Zoning

Robin Parker, Secretary – Prepared Minutes

Meeting was called to order at 9:00 a.m.

Opening prayer and Pledge of Allegiance

Commissioner Brumfield arrived at 9:02 a.m.

Proof of Publication – Zoning Director submitted and accepted by Commissioners. Motion made by Commissioner Hyman, seconded by Commissioner Zucaro. Motion carried 7-0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Absent
			Maker			Seconded		

Adoption of Minutes – Motion made by Commissioner Hyman, seconded by Commissioner Scarborough. Motion carried 7-0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Absent

Swearing in by Assistant County Attorney, Bob Banks.

Disclosures - The Commissioners disclosed that they had met with or spoken to the agent, owner and or public on the following item numbers:

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
n/a	14,15, 16	16*	13,14,15,16	14,16	15,16	16	14,15,16	Absent

**Commissioner Davis disclosed Item 16 when she arrived.*

Commissioner Hyman mentioned that Frank Behrman, a beloved and well respected former Zoning Commissioner, had passed away. She asked to take a moment to remember Frank.

POSTPONEMENTS/REMANDS/WITHDRAWALS

1. DOA-2008-02226 Villagio Isles PUD

Staff: N/A
 Agent: N/A
 Public: N/A
Discussion: N/A

MOTION: To postpone thirty (30) days to Thursday, July 2, 2009. Carried 7-0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Absent
					Seconded		Maker	

2. Z/CA-2009-00210 LaMensa Academy

Staff: N/A
 Agent: N/A
 Public: N/A
Discussion: N/A

MOTION: To postpone thirty (30) days to Thursday, July 2, 2009. Carried 7-0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Absent
					Seconded		Maker	

Chairman William Anderson mentioned for the record, Kelley Armitage is a voting member as Commissioner Davis is absent.

3. ZV-2009-00978 Texaco Gas Station

Staff: N/A
 Agent: N/A
 Public: N/A
Discussion: N/A

MOTION: To postpone thirty (30) days to Thursday, July 2, 2009. Carried 7-0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Absent
					Seconded		Maker	

- 9. ABN/DOA-2009-01990 Square Lake Office**
 Staff: Jon MacGillis, Zoning Director, stated this item was being withdrawn as shown on the add/delete and no motion is needed as a withdraw by right.
 Agent: N/A
 Public: N/A
Discussion: N/A

CONSENT AGENDA

PREVIOUSLY POSTPONED ZONING APPLICATIONS

- 4. ZV-2009-00970 Hippocrates PUD Pod B**
 Staff: N/A
 Agent: Bradley Miller, agent for the applicant, agrees with the conditions.
 Public: N/A
Discussion: N/A

MOTION: To adopt a resolution approving the requests for Type II variances to allow 100% overlap of the utility easement with landscape buffers in Pod B on the north property line; to allow reduction of the required Right-of-Way buffer for the north property line in Pod B and to allow a one foot encroachment of a roof overhang into required setback, carried 7-0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Absent
					Seconded		Maker	

Commissioner Davis arrived at 9:10 a.m.

ZONING APPLICATIONS - NEW

- 5. DOA-2009-00216 Pratt and Orange MUPD**
 Staff: N/A
 Agent: Collene Walter, agent for the applicant, agrees with the conditions and add/delete changes.
 Public: N/A
Discussion: N/A

MOTION: To recommend approval of a Development Order Amendment to reconfigure the site plan, add square footage, relocate two access points and modification of four conditions of approval (Architectural, Lighting, Planning and Use Limitations) and deletion of one condition of approval (Building and Site Design) subject to the Conditions of Approval as indicated in Exhibit C, carried 7-0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
*	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent
					Seconded		Maker	

* Alternates did not vote as all regular members were present; therefore space is left blank

- 6. DOA/R-2009-00566 Queen of Pawns**
 Staff: N/A
 Agent: Kevin McGinley, agent for the applicant, agrees with the conditions and add/delete changes.
 Public: N/A
Discussion: Commissioner Zucaro abstained from the vote. He stated he had previously represented the owner of this project in the past. (Form 8B completed and attached at the end of this document).

MOTION: To recommend approval of a Development Order Amendment to reconfigure the site plan, carried 6-0, Commissioner Zucaro abstaining.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	N/A	Yes	Absent
					Seconded		Maker	

MOTION: To recommend approval of a Requested Use to allow a Pawnshop, carried 6-0, Commissioner Zucaro abstaining.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	N/A	Yes	Absent
					Seconded		Maker	

7. ZV-2009-0980 The Food Court

Staff: N/A

Agent: Chris Barry, agent for the applicant, agrees with the conditions as amended.

Public: N/A

Discussion: N/A

MOTION: To adopt a resolution for a Type II Variance to allow the elimination of the landscape buffer along the east property line; a reduction of the width and number of shrubs in the right-of-way buffer; to allow easements to encroach a landscape buffer; and a reduction of the separation requirement between Type I Restaurants, carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent
					Seconded		Maker	

8. ZV/DOA/Z-2009-00555 Water Treatment Plant #8

Staff: N/A

Agent: The agent was not present.

Public: N/A

Discussion: N/A

MOTION: To recommend approval of a Development Order Amendment to add land area, reconfigure the site plan and legislatively abandon the Special Exception granted under R-1989-939, carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent
			Seconded				Maker	

MOTION: To recommend approval of an Official Zoning Map Amendment to allow a rezoning from the Single-family Residential (RS) and the Agricultural Residential (AR) Zoning Districts to the Public Ownership (PO) Zoning District with a Conditional Overlay Zone subject to 12 Conditions of Approval as indicated in Exhibit C, carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent
			Seconded				Maker	

10. ZV-2009-00973 MPC III Turnpike Business Park

Staff: N/A

Agent: Andrew Jacobson, agent for the applicant, agrees with the conditions.

Public: N/A

Discussion: N/A

MOTION: To adopt a resolution approving a Type II variance to eliminate a Type 3 incompatibility buffer subject to conditions of approval, carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent
					Seconded		Maker	

11. ZV-2009-00989 Aspen North Congress Office/Warehouse

Staff: N/A

Agent: Kim Glas-Castro, agent for the applicant, agrees with the conditions.

Public: N/A

Discussion: N/A

MOTION: To adopt a resolution for a Type II Variance to allow a reduction to required parking, pervious area, landscape buffer widths and required plantings, loading

dock/door screening and setback, overlap of utility easements into landscape buffers and landscaping of vehicular use areas subject to the Conditions of Approval, carried 7-0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent
					Seconded		Maker	

12. ZV/DOA-2009-00219 Broward Motorsports of Palm Beach

Staff: N/A

Agent: Kim Glas-Castro, agent for the applicant, agrees with the conditions and changes on the add/delete.

Public: N/A

Discussion: N/A

MOTION: To adopt a resolution approving Type II variances to allow the site to exceed the build-to line; the site to reduce the pervious surface area, the site to eliminate screening of the bay doors; and an accessory use to exceed the maximum floor area, carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent
					Seconded		Maker	

MOTION: To recommend approval of a Development Order Amendment to re-designate land uses, reconfigure the site plan and modify /delete conditions of approval (Use Limitations), carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent
					Seconded		Maker	

Item 15 was moved to the Consent Agenda on the add/delete.

15. DOA-2009-00562 Glades Square

Staff: N/A

Agent: Kieran Kilday, agent for the applicant, agrees with the conditions.

Public: N/A

Discussion: N/A

MOTION: To recommend approval of a Development Order Amendment to modify/delete Conditions of Approval (Site Design, Engineering), subject to the Conditions of Approval, carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent
					Seconded		Maker	

REGULAR AGENDA

ZONING APPLICATIONS - NEW

13. CA-2009-00206 Jupiter Seventh Day Adventists

Staff: Anthony Wint gave a presentation of the project.

Agent: Ali Kalfin, agent for the applicant, gave a PowerPoint presentation of the project.

Public: Several cards were turned in for this item, they are listed in the discussion below.

Discussion: Commissioner Hyman asks how tall the building is, the applicant answered the building is 40' in height, which is allowed with additional setbacks. Commissioner Davis joins discussion with two questions for the applicant which are: On the existing site map, is it showing a pond or a wetland? Also, is it used for stormwater? Ali Kalfin responds that it is an existing pond and confirms it will be used for stormwater. Commissioner Davis' next question is about 103rd Terrace, what form is this road? Agent answers it is open grade asphalt pavement.

Thomas O'Rourke, 17619 N 103 Terrace, read into record a letter statement that he prepared and e-mailed to staff and his Commissioner's office opposing the church use. He states he would like additional time for the residents of 103rd Terrace to meet with the

agent. His concerns are the grade of the road, septic and drainage system, fire safety station being a contained unit, retention pond flooding concerns, removal of trees, size of monument signs, and to resize the church to fit into neighborhood. Commissioner Hyman asks Mr. O'Rourke how he represents his neighbors (formally or informally) and he responds he is there to represent himself and his wife. She mentions he raised a lot of important issues. The agent responds she had met with Jupiter Farms Resident Association and was unaware Thomas O'Rourke and residents of 103rd were not included in this group. Ali Kalfin then stated she met with the residents of 103rd at her office and responded to their questions and concerns. Ms. Kalfin addressed their concerns about the depth of the pond, fire hydrant location, well/septic and tree preservation which were to be finalized during permitting. She received no response from the residents after her meeting. Commissioner Hyman suggests the agent meet again with the surrounding residents as she feels they have valid concerns and believes they can work out the details to have the residents support church use. She would like to suggest a postponement to work out issues. Commissioner Hyman says she supports a church use for a neighborhood but feels that with the impact of the church needs to address resident's concerns.

Commissioner Anderson questions the road grade, whereas the Project Engineer Jeff Iravani explains the road substance as open grade mix, or OGM. He states OGM is basically pervious asphalt, and was paved by South Indian Water Control District. Benefits for OGM include: pervious asphalt surface allows pollutants to drain into the asphalt after rainfall instead of running off into the canals, and it takes less energy to build the road. Also the road produces less noise, approximately 4 to 10 decibels quieter than regular asphalt. Mr. Iravani has spoken to the WCD and determined that the road is approximately two years old and has an annual review/maintenance plan by the District. Maintaining the OGM road is more cost efficient, using a fog seal which costs less and is more environmentally friendly. Mr. Iravani states Haney Lane is an OGM road in Jupiter Farms and serves Jupiter Farms Elementary school. This road is approximately eight years old. WCD had to overlay a portion of it just a few weeks ago. This is a district road, they build it and maintain it.

Mr. Iravani states the concerns with well and septic tank. He states that Jupiter Farms shopping center has a package plan because they have 100,000 gallons commercial wastewater. The church will operate as a residential type system up to Health Department standards. A package plan is not required by Health Department or DEP. The drainage system will meet all requirements by the County, Health, and Indian River Water Control District. They have met with the fire marshal and they will have a fire hydrant that is designed to have two hours of supply in the dry season. These concerns will be met during permitting when the civil plans are prepared.

Mr. O'Rourke says the road is in a muck pit, nothing under the asphalt but sand. His concern is the road moves to the left or right and the amount of traffic will cause the road to collapse. Commissioner Hyman questions if he is an engineer? He said no but he knows this because of his prior experiences. He states he has met with Gayle English several times regarding this and was informed that a county spec road would need to be in place to bring in any type of development. It is sand track and not considered a road according to Gayle English.

Commissioner Davis questions the quality of the water being discharged into the canal, which drains into the Loxahatchee River and requires class one. Jeff Iravani responds that it discharges into the IRWCD canal that the shopping center also uses to discharge, the treatment would meet South Florida and Indian River requirements. That would mean 2 ½ " of detention. Commissioner Davis questions staff what the quality of canal water would be? Mr. Iravani responds that the canal is not class one. Commissioner Davis states that water discharged into a federally designated water body is supposed to be class one. She would like to emphasize the necessity to clean that water up before it's discharged because we don't need to add any more into an imperiled water body. Mr. Iravani states they will provide ½" of dry retention on top of the 2 ½ " required.

Commissioner Davis also questions the quality of the road and whether it can hold up to the traffic without being a burden to maintain? Ken Rogers, Engineering, states OGM is basically an asphalt/concrete surface with the rock taken out of it. The appearance is of an asphalt road. If the road was built on a base course that met minimum compaction

standards the maintenance should not be any higher. He states if Mr. O'Rourke claims were correct, he could not answer that question or give a determination until compaction tests were done. He states this is not a County road and Indian River maintains and determines whether or not a proposed use will have a detrimental effect on their road. The applicant has shown the general manager of the District does not have any objection to the proposed use utilizing their road.

Commissioner Davis stated the church is a unique use within a primarily residential area and it would be a shame to have the residents of that taxing district have their fees increased for road maintenance for the church use coming in. Her concern is the cost to the existing neighborhood. Mr. Iravani again states that with proper compaction the road should not pose a problem, and maintenance is completed as required.

Commissioner Hyman questions the large sign concerns raised by the gentleman and said she didn't find the sign conditions in the staff report. Jon MacGillis states there is one sign condition on page 278. Anthony Wint reads the condition limiting the sign to 6' and only one sign on 103rd Terrace. Mr. Wint states he has spoke with Mr. O'Rourke about his concerns with the sign and other issues were referred to the appropriate agencies, but did meet to try and address his concerns.

Mr. O'Rourke read into record a letter from Gayle English, South Indian Water Control District.

Commissioner Zucaro questions whether Mr. O'Rourke and his neighbors received notice of the project? Mr. O'Rourke states he didn't receive a notice but did see a sign on the property saying the church welcomes you as he noticed something as a prayer meeting as he drove by. Jon MacGillis states residents within 300' were notified by certified mail, within 500' were notified by regular mail. Also, yellow signs are posted every 100' on the property line and notices appear in the Palm Beach Post.

Edward Scott, 12768 165 Road N, states he is in support of the church and feels the church will contribute to the neighborhood. He states the church has a facility for youth, a disaster provision to help with those needs in the community. He asks the commission to give the application their blessing.

Luann Dale, 17715 103rd Terrace North, states she has no objection to have the right to worship. The building size is of concern to her. Also, the membership levels of existing churches in the area are low. School enrollments are down in the area and doesn't feel the intent of the rural tier is accomplished with the church. She feels the location of the church in the middle of the street and not at the end of 103rd is not in the right location. She believes the size, color of the church is not compatible with the area.

Barbara Peters, 2551 Locharone Rd., is in support but doesn't wish to speak.

Dennis McOmber, 350 SW McComb Ave., is the pastor of the Jupiter SDA Church. He doesn't feel he needs to address specific concerns but would like to say the church has been in the area for 30 years and will continue to provide valuable services and community service programs.

Bob Durkos, no address given, is in support but doesn't wish to speak.

Ron Barnett, 16365 128th Tr., N., states he respects the views of his neighbors but also realizes the importance of the church. He said he was very happy with the tree preservation being done on site. He would like to mention the nursery uses and heavy equipment that also use the roads out there, believes the road would already be a problem with the equipment traffic and 18 wheel trucks. He says a typical Saturday worship might have 50 cars on the road.

Edith Bruorton, 17610 123rd Terrace N, is in support but doesn't wish to speak.

Sam Aurilio, 3307 Northlake Blvd., #105, is in support but doesn't wish to speak.

Ernest Bruorton, 17610 123rd Terrace N, states he is the head elder of the church and a Jupiter Farms resident for 31 years. He has never heard complaints with the existing

four churches. He understands neighbor concerns about mega churches but states their seats and parking spaces are limited. The church wants to work with the community regarding their concerns. States they are a community service church and wants to enhance the community not degrade it.

Lois Taylor, 17127 Thunder Road, representing Jupiter Farms Residents, states the church should be commended for choosing a location adjacent to the shopping center and utilizing grass parking. Concern about the trellis instead of porches as usually found in Jupiter Farms has no objections by the residents. The steeple feature is still a concern with the residents and is working with the church to make the use more compatible and comparable with the area.

Jon MacGillis responds staff has pulled the manifest on property owner notification and did send 12 certified mailings and 9 regular mailings with Mary O'Rourke receiving a regular mail notification. Thomas O'Rourke confirmed that.

Ali Kalfin stated the project architect is in attendance and could provide answers if they have any questions. Also she would like to ask to not be postponed, but able to move forward and have additional meetings with the residents before the BCC.

Commissioner Zucaro stated the issues and concerns mentioned were valid, and the road concerns he feels is the biggest problem. Questions what Indian River is doing in regards to this application and when can the residents bring their concerns to the control district for answers.

Commissioner Kaplan asks the engineer to provide more detail about his meetings with control district. Jeff Iravani states he has met with the district and Commissioner Kaplan questions whether they have any objections? Mr. Iravani replies they do not, he has spoke with Mike Dylan and their consultant district engineer.

Commissioner Anderson suggests Mr. Iravani meet or speak with Gayle English sometime before the next meeting to clarify his concerns.

Commissioner Hyman recalls the project on High Ridge Road within a residential area the residents were nuts about the commercial intrusion and now we've heard about the intrusion of this church use and it's a large building. The scale is huge, not just a little steeple rising up. She feels the petitioner needs to meet with the residents and try to address their concerns before coming back to ZC.

Commissioner Anderson mentions he believes they have only ever denied one church which was very large down a residential road. Asks whether there is any residential homes between the church and the beginning of the road or is it commercial uses? The neighbors state there are two residences.

Commissioner Hyman makes a motion to postpone 30 days, to July 2, 2009. Seconded by Commissioner Zucaro.

Commissioner Hyman suggests to staff maybe adding a condition to repave that portion of the road, Commissioner Zucaro states he supports that idea and believes the repaving would be the solution.

MOTION: To postpone for thirty (30) days to Thursday, July 2, 2009. Motion carried 5-2, with Commissioner Kaplan and Commissioner Brumfield opposed to the postponement.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Nay	Yes	Yes	Yes	Yes	Yes	Nay	Absent
			Maker			Seconded		

14. DOA-2008-01672 Star Ranch Excavation Expansion

Staff: Joyce Lawrence gave a presentation of the project.

Agent: Kieran Kilday, agent for the applicant, gave a presentation of the project.

Public: N/A

Discussion: A copy of a fax from Ana Maria Escagedo received on June 3, 2009, regarding a Perpetual Easement and a request for postponement was handed out to the Commissioners, however, Ms. Escagedo did not attend the hearing. The agent indicated

that the easement was established in the early 1970's between the applicant and the property owner to the north to provide irrigation. He stated that the owner to the north would like to extinguish the easement, however, since much of Star Ranch property is currently for agricultural uses, there is no disagreement on the water use issue. As the excavation goes on, there eventually will be no need for the easement and the expansion will not affect the easement.

Commissioner Davis disclosed that she spoke to the agent on the proposal, and that the organization she worked for is in litigation/legal issues with several of the mining operations with Development Orders in the EAA County. She then asked the agent regarding the adjacency of the proposed project to the South Florida Water Management District property, and stated that either that the district property is going to cause a STA or reservoir and that the mine could cause seepage, water quality issues, contamination concerns and it could increase the cost of the Everglades Restoration because of those things. She asked how these issues would be addressed. The agent responded that as part of the permitting process, if there are any of those issues whenever they get to the proposed expansion these issues would be addressed as it affects any adjacent property.

Commissioner Davis quoted a portion of the ULDC and the Comprehensive Plan pertaining to Mining in the AP District and the AP FLU designation and asked staff if the applicant is meeting Code requirement, how will staff know, and how will it be enforced? She further asked how would the county know that there is a need for this mining or has the applicant shown a data analysis to prove that the proposal is needed and how much?

The agent and staff replied that there are Planning conditions of approval that addressed the yearly annual report for compliance with that provision of the Code. Staff added that there is a FDOT letter that reference that they are asking for aggregate to support road building. In addition, based on the mining impact study from the applicant it is demonstrated how the aggregate will be provided for.

She was also told that the Justification Statement will also act as evidence for the applicant as to the intent of the proposal by the applicant and in the past they have supplied and supported industries in this area for both Water Management and Government projects, as well as roadway building. The soil and rock analysis indicated that they have the type of rock that the FDOT requires as certified rock and that all supplemental materials can go toward other supporting aspect of road construction and that this is the applicant's primary intent for this application as stated in the Justification Statement.

The Conditions of approval for the Monitoring aspect covers multiple divisions requirements for annual monitoring, addressing each of these issues, such as the amount sold, the tonnage fee, the current phase, where did the product go, how they are complying with the intent of the Comp Plan and the Code and to the statements they made in the Justification Statement. In addition, the applicant is also required to inform the county whether they are still in compliance or have any non-compliance issues with other state agencies that has a stronger permitting process for the intricacies of mining than the County has, such as the DEP which looks at the raw aspects of mining in the area, so the County can put a stop work order on the project.

Commissioner Davis asked the applicant if they agree that rock excavation activity would only proceed for public roadway, or water management or agriculture. The agent replied that this will be for the expanded area. There were no members from the public present.

MOTION: To recommend approval of a Development Order Amendment to allow an expansion of a Type III B Excavation, carried 6-1.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Nay	Yes	Yes	Yes	Yes	Yes	Absent
			Maker				Seconded	

Five minute break from 10:45 a.m. to 10:50 a.m.

16. ZV-2009-01486 Sherbrooke Center TD Bank

Staff: Donna Adelsperger gave a PowerPoint presentation of the project.
 Agent: Scott Bachman, agent for the applicant, gave a presentation of the project. *Agent submitted into record a copy of the building permit for the sign as a handout to Commissioners.*
 Public: N/A

Discussion: Commissioner Anderson stated he knows that large signs are objectionable, and he lives in this area and noticed the building driving around with his wife and thought it may be a bank by the design, but didn't notice the sign.

Commissioner Hyman states everyone knows she is concerned with the size of signage but also is a user and buildings need proper signage for customers to find the business. She mentioned she couldn't believe staff would recommend denial, but also she respects their opinion. In this case however, she feels the bank meets the seven criteria for variance. She feels the petitioner is entitled to the variance, and she recommends approval.

Commissioner Kaplan states he agrees with Commissioner Hyman, he agrees with the first variance under circumstances staff permitted and second should be permitted.

Donna Adelsperger stated conditions are on page 263, and wall sign conditions limits to 13 feet.

Staff and agent agree to modify condition 1, delete 2, modify condition 3 to 23. 6' sign size and delete 4.

Commissioner Davis questions how could the petitioner need a variance when he already has his permit? Bob Banks responds he would like to state for the legal record a permit being issued by mistake or staff error doesn't excuse the property owner from compliance from code. Staff had right to bring owner under Code Enforcement and had sign removed until remedied. When this Board considers a variance, an estoppel argument is considered by a court of equity and in court, not what staff considers when they make their recommendation, and frankly is not what a Board does when granting a variance. The County Attorney's position regarding an estoppel issue is you take that to a judge. We don't grant variances because staff made a mistake and the case law is very clear, signs can be taken down, buildings can be torn down, or stories from high rises can be chopped off if you built and not met Code.

Commissioner Hyman responds she believes this variance was not self imposed.

Commissioner Kaplan responds the Board also makes equitable decisions and considers a variance to be that.

MOTION: To adopt a resolution approving a Type II Zoning Variance to allow a wall sign not facing a street and to allow an existing wall sign facing a residential zoning district to exceed the maximum square footage, motion carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent
			Maker				Seconded	

Commissioner Hyman asked if the commission could be provided with foot stools, and also has a problem seeing TV screens. Jon MacGillis stated he put in a request to Administration per Commissioner Hyman's earlier request to move the TV screens and told because of budget restrictions there is no money to make improvements to the hearing room.

Commissioner Davis responds her screen in front of her is upside down and backwards, Jon responds he will have ITS look at it. Commissioner Hyman questions whether the screens in front of them mirror what is shown on television. The large screens do not match what is on the small screen in front of them. She would like to see what Channel 20 is broadcasting on the small screens.

Meeting adjourned at 11:24 a.m.

Attachment: Form 8B (Filed by Commissioner Zucaro)

PLEASE NOTE:

The Zoning Commission (ZC) and Board of County Commission (BCC) Hearings, are broadcasted live on Channel 20 the day of the hearing. Video is archived and available for viewing on the Palm Beach County Website. Please allow 24 to 48 hours after the hearing date for the video to be available.

Click below to view listings and watch the ZC and BCC archived hearing videos:

http://www.pbcgov.com/countycommissioners/bcc_meeting_videos.htm

If you wish to purchase a DVD or VHS Tape of the Zoning Commission or Board of County Commission Hearing a copy can be made available by contacting Channel 20. To purchase a copy of the hearing, please call Victoria Leveille at 561-355-1790 or 561-355-4573 or email her directly at vleveille@pbcgov.com

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FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME ZUCARO Alfred	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Voting Committee
MAILING ADDRESS P.O. Box 1619	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY W P B, FL 33401 Palm Beach	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED June 4, 2009	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, ALFRES ZUCANO, hereby disclose that on June 4, 2009.

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Lawyer-Client Relationship to Applicant in an unrelated matter

6-4-09

Date Filed

Alfred Zucano
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.