

**PALM BEACH COUNTY  
ZONING COMMISSION**  
THURSDAY, April 2, 2009

**MINUTES OF THE MEETING**

The Zoning Commission met on the 1<sup>st</sup> 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  
Richard Bowman, Alternate Commissioner

Commissioners Al Zucaro arrived after role call at 9:03 a.m. and Commissioner Scarborough arrived at 9:15 a.m.

**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  
John Pancoast, Monitoring Division  
Nick Uhren, Traffic Division  
Joyce Cai, 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  
Douglas Robinson, Site Planner I, Zoning  
Donna Adelsperger, Site Planner I, Zoning  
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 Zucaro arrived at 9:03 a.m.

**Remarks of the Chair – Commissioner Anderson**

The BCC meeting date was incorrect on the Agenda, was corrected by the Chair to reflect Thursday, April 23, 2009 and not Monday, March 30, 2009.

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

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

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

**Adoption of Minutes** – Motion made by Commissioner Hyman, seconded by Commissioner Kaplan. Carried 7-0.

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

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
None	None	11	11	None	Absent	None	None	None

### POSTPONEMENTS/REMANDS/WITHDRAWALS

#### 1. ZV-2008-01675 JCL Contractor's Storage

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

MOTION: To postpone ninety (90) days to Thursday, July 2, 2009. Carried 7-0.

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

### CONSENT AGENDA

#### 2. SR 2004-589 Ronald D Simon

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

MOTION: To 1) approve a time extension until December 1, 2011 for Resolution ZR-2005-004, Carried 7-0.

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

MOTION: and 2) revoke concurrency for a day care, general. Carried 7-0.

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

Commissioner Davis asks what the limitations are for time extensions, Jon MacGillis answers that staff can grant a one year extension; the Board can grant two or three years. John Pancoast, Monitoring Division, clarifies the Board can grant up to three years.

**6. PDD/R-2008-1903 Addison Court (Friends of Chabad)**

Staff: N/A

Agent: Bradley Miller, agent for the applicant, stated he agrees with the conditions, including changes on the add/delete and additional landscape conditions.

Public: N/A

**Discussion:** Commissioner Hyman asks agent for elevations, Bradley replies that elevations have not been submitted at this time. Staff replies that elevations will be subject to Article 5.C.

MOTION: To recommend approval of an Official Zoning Map Amendment rezoning from General Commercial (CG) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District. Carried 7-0.

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

MOTION: To recommend approval of a requested use to allow a place of worship, daycare general, and financial institution with 4 drive-thru lanes. Carried 7-0.

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

**7. Z/ABN-2008-1918 PBA Properties Rezoning**

Staff: N/A

Agent: Joni Brinkman, agent for the applicant, stated she agrees to the voluntary commitments and add/delete changes.

Public: N/A

**Discussion:** N/A

MOTION: To recommend approval of an Official Zoning Map Amendment to allow a rezoning from the Residential High Density (RH) in-part, the Multi-family Residential (RM) in-part, the Light Industrial (IL) in-part, and the General Commercial (CG) in-part Zoning Districts to the Public Ownership (PO) Zoning District. Carried 7-0.

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

MOTION: To recommend approval of a Development Order Abandonment to revoke Resolution R-80-1615 which granted a Special Exception to allow an Office/Warehouse combination. Carried 7,0.

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

Commissioner Scarborough arrived at 9:15 a.m.

**8. ZV-2009-0215 Pratt and Orange MUPD**

Staff: Donna Adelsperger reads 4 variance conditions into record.

Agent: Collene Walter, agent for the applicant, stated she agrees to the four conditions.

Public: N/A (Alexandria Larson submitted a comment card but arrived after the item was discussed.)

**Discussion:** Commissioner Davis remarks the area is very wet, is there any way to utilize pervious pavers? Collene Walter stated that stormwater will be accounted for and that this is the first green library building. Commissioner Davis also asked staff about using a rain garden and gave description of what it is. Collene mentioned task force to address ULDC. Commissioner Davis also suggested green roof and cisterns – Collene said no to green roof because of cost but a cistern will be provided. Jon MacGillis also discussed the County Green Task Team and about their goal to establish Green incentives for County. He indicated Green Task Team is still meeting, however their recommendations will be finalized by June 2009.

MOTION: To adopt a resolution approving a Type II Zoning Variance to allow a reduction in the required pervious surface area. Carried 7-0.

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

**REGULAR AGENDA**

- 3. **DOA-2008-1908 Delray Marketplace TMD**
- 4. **PDD/DOA-2008-1911 Ascot – Lyons and Atlantic PUD**
- 5. **TDD/DOA-2008-1912 Delray Marketplace TMD**

Staff: Carol Glasser, gives a presentation on Items 3, 4, and 5.  
 Agent: Jennifer Tighe, agent for the applicant, gives a presentation for the projects.  
 Public: Melissa McKeowan – spoke at the end of the meeting regarding opposition for the proposals.

**Discussion:** The items 3, 4, and 5 were moved from the Consent Agenda to the Regular Agenda at the request of Commissioner Davis in order to discuss the three concurrent applications to exchange preserve area parcels between the TMD and PUD developments in the Agricultural Reserve area. Additionally, a member of the public wished to speak on the applications. The three concurrent applications were presented and discussed together. The agent stated that the BCC has approved preserve area exchanges in the past. The agent stated that the future development of the Donna Klein Jewish Academy on the TMD, which allows the development of civic uses in the preserve area, is not part of the current application. The agent also stated that the ZC will have the opportunity to address the future application for a Requested Use to allow the school, which will be filed at a later date through a subsequent application.

Commissioner Davis stated concern for the process; that the real intent of these applications is to place a school with a regional draw in an active agricultural area, which in her opinion is inconsistent with the Comprehensive Plan. Commissioner Davis stated she is opposed and moved to deny. Mr. MacGillis, Zoning Director, clarified for the record that the requests are consistent with the Comprehensive Plan and Zoning Code and historically preserve parcels have been allowed to be re-designated to different Control Numbers through a Zoning application.

Commissioner Davis questioned, “How can you keep pesticide drift off students?” Commissioner Bowman indicated that a safety issue of students moving between the TMD parcels across Lyons Road remains even if the preserve swap is not approved. Commissioner Bowman also stated he is a farmer and that there are State and Federal guidelines for the use of fumigants. Commissioner Davis indicated that not everyone follows the rules. Motion to deny failed for lack of a second. Commissioner Hyman made a motion to recommend approval and further stated that she appreciates fellow Commissioners comments, but Staff has confirmed that the applications comply with the Code and the Plan and, therefore feels compelled to approve.

A member of the public, Ms. Melissa McKeowan, President of Delray Growers, Inc., spoke on the three concurrent applications. She is opposed to the development because the agricultural land has been assessed for agricultural use and the development is benefited from the water lines that have been extended on West Atlantic Boulevard at a cost to growers. The speaker indicated there is no benefit to the agricultural residents and another Publix was not needed. The speaker wanted to know if the TMD development is LEED (Leadership in Energy-Efficient Design) Certified and Green? Commissioner Davis thanked the speaker for coming to the public hearing and encouraged attendance at the BCC hearing to voice her concerns. Commissioner Hyman noted that the ZC recommends and the BCC is the final hearing and that the BCC wants to hear from the public. Staff indicated that another application DOA2008-1900 for the TMD development area is in process and that the water/reclaimed water issue, which would be deferred to the Palm Beach County Water Utilities Department, could be included in the future report.

MOTION: To recommend approval of a Development Order Amendment to delete land area. Carried 6,1.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Deny	Yes	Yes	Yes	Yes	Yes	
			Maker				Second	

MOTION: To recommend approval of an Official Zoning Map Amendment to allow a rezoning from the Traditional Marketplace Development (Preservation Area) (TMD) Zoning District to the Agricultural Reserve Planned Unit Development (Preservation Area) (AGR-PUD) Zoning District. Carried 6,1.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Deny	Yes	Yes	Yes	Yes	Yes	
			Maker				Second	

MOTION: To recommend approval of a Development Order Amendment to add land area, delete land area, and to modify the Master Plan subject to the conditions of approval in Exhibit C. Carried 6,1.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Deny	Yes	Yes	Yes	Yes	Yes	
			Maker				Second	

MOTION: To recommend approval of an Official Zoning Map Amendment to allow a rezoning from the Agricultural Reserve Planned Unit Development (Preservation Area) (AGR PUD) Zoning District to the Traditional Marketplace Development (Preservation Area) (TMD) Zoning District. Carried 6,1.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Deny	Yes	Yes	Yes	Yes	Yes	
			Maker				Second	

MOTION: To recommend approval of a Development Order Amendment to add land area subject to the conditions of approval in Exhibit C. Carried 6,1.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Deny	Yes	Yes	Yes	Yes	Yes	
			Maker				Second	

**9. ZV/ABN/Z-2008-1905**

Staff: Douglas Robinson

Agent: Collene Walter, agent for the applicant, stated she agrees to the four conditions.

Public: N/A

**Discussion:** Commissioner Hyman discussed whether a traffic light should be installed at Atlantic and Sims Road as requested by the residents of the surrounding properties. Ken Rogers, Director of Land Development/Engineering stated that at the time of this application there were no indications that a traffic light was warranted. He also stated that there may be additional traffic counts that had not been submitted. Commissioner Hyman requested another traffic study for Atlantic Boulevard to determine if a traffic light was warranted. The agent indicated that a new study would clarify a traffic light was not warranted to address any impact from this request. Collene suggested not adding the condition at ZC, so staff and applicant could work out issues prior to BCC. They could add condition at BCC if necessary. The property owner also objected to any further funding of roadway improvements as he had previously funded Sims Road construction and paid impact fees. Commissioner Zucaro was opposed to adding the condition. A motion made by the Zoning Commission included a recommendation for a signal condition at Atlantic Ave. and Sims Road.

MOTION: To adopt a resolution to approve a Type II Variance to reduce the required landscape buffer width from 15 feet to 5 feet and to exceed the maximum building coverage from 25% to 32%. Carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Maker				Second	

MOTION: To recommend approval of the abandonment of Resolution R-1986-642 which granted a Special Exception to allow an adult congregate living facility. Carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Maker				Second	

MOTION: To recommend approval of an Official Zoning Map Amendment from the Multi-family Residential (RM) Zoning District to the Institutional Public Facility (IPF) Zoning District. Carried 6,1 with a condition regarding traffic signal payment.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Deny	Yes	
			Maker				Second	

Commissioner Zucaro denied because of amended motion, the high cost for traffic signalization at Atlantic and Sims Rd., and putting the project in jeopardy of not moving forward. Robert Schemel, Owner, stated he spent a lot of money in infrastructure over the years and objects to adding the condition regarding traffic signal payment.

**10. ZV/DOA-2008-1684 Resident Service Center**

Staff: Carol Glasser

Agent: Mike Covelli, agent for the applicant, gives a brief presentation of the project. Mike stated that the property was recently purchased and the application addresses existing site conditions and seeks to modernize and expand certain uses such as the pharmacy. He also stated that a community meeting was held in the Century Village Clubhouse to present the project and answer questions, which 65 residents attended. Mike concurred with all of Staff's comments. No members of the public spoke.

Public: N/A

**Discussion:** None.

MOTION: To adopt a Resolution approving a Type II Variance to allow a reduction in the required parking subject to the conditions of approval in Exhibit C-1. Carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Maker				Second	

MOTION: To recommend approval of a Development Order Amendment to modify/delete conditions of approval (Landscaping, Lighting, and Use Limitations) and add land area subject to the conditions of approval in Exhibit C. Carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Maker				Second	

**11. Z-2008-2217 Palm Beach Country Estates Community Park**

Staff: Donna Adelsperger

Agent: Ken Tuma, agent for the applicant, gives a presentation of the project.

Public: None

**Discussion:** Staff gave presentation and indicated that All Petitions 1 was to be amended to read 180 days. Ken Tuma, agent, gave a brief presentation and requested to discuss two Engineering Conditions E1 and E2. The applicant opposes both Engineering Conditions E.1 and E.2 as they feel the improvements are unwarranted and the existing unimproved roads would help to control the speed of vehicles within the vicinity of the park. The applicant indicated that the funds for this park were being raised

by the community and the conditions would put an undue hardship on the project should they have to pave the road and sidewalk. Engineering staff indicated that a sidewalk along 69<sup>th</sup> Drive is under construction and is anticipated to be completed by the end of the year. The asphalt sidewalk required by the Engineering Division is adjacent to the park and would tie into the sidewalk the County is now constructing. A letter from SIRWCD (Exhibit E) was presented at the hearing indicating that SIRWCD is willing to accept maintenance of the 20 foot wide unimproved road. The applicant stated that the residents voted against paving the roads. Commissioner Kaplan stated he lives in the area and supports the sidewalk to get residents to the park. Ken Tuma says there are no sidewalks out there. Commissioner Hyman indicated she had spoken with the property owner who is donating the land and he did not want the road or the 6 foot sidewalk to be paved. Joanne Koerner from Land Development indicated that the County project was in the process of providing the sidewalk along 69<sup>th</sup> Drive which ends at 155<sup>th</sup> and asked that this project extend that sidewalk. Joanne Koerner also stated that for this to be a public park it must be on a minimum twenty foot stabilized roadway. Commissioner Davis was in support of not paving 20 foot wide unimproved road. Joanne Koerner stated that 69<sup>th</sup> is paved to this point. Commissioner Kaplan stated that he lives south of here and have no problem leaving the road unpaved but feels strongly the sidewalk should be put in and would have to oppose if they delete the sidewalk. Commissioner Hyman made the motion to approve the request with the deletion of Engineering conditions E.1 and E.2, seconded by Commissioner Zucaro.

Documents submitted:
Letter from SIRWCD

MOTION: To recommend approval of an Official Zoning Map Amendment to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Public Ownership (PO) Zoning District with a Conditional Overlay Zone. Carried 6,1.

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

**12. DOA-2008-1897 Atlantic Commons PUD**

Staff: Ora Owensby  
 Agent: Kevin Ratterree  
 Public: Alexandria Larson –Commented on flooding and development concerns.

**Discussion:** Mr. Ratterree, agent, explained that this project was recently acquired by GL and had been previously approved prior to the workforce housing program. The agent has redesigned the project to accommodate workforce housing standards for the addition of 256 multifamily units and change of unit type. 71 of these units are workforce housing. The agent met with property owners in the area and provided a letter of no objection from the Alliance of Delray Residential Associations, and two proposed conditions from Emerald Pointe for the record. The ZC and the agent discussed the proposed rodent control condition and the proposed landscape condition for the east buffer across the canal from Emerald Pointe and Hagen Ranch Heights. The timing of installation of the buffer and fence will be linked to the construction of the proposed spine road.

During public discussion, Ms. Alexandria Larson objected to the request on several issues on a county-wide basis: the issues of restarting the commencement clock, increasing density, workforce housing, water availability and flooding. Commissioner Davis mentioned the recent regional water availability rule and how that could impact this development, also requested pedestrian and bicycle cross-access. Commissioner Hyman asked whether a traffic signal would be installed. The agent’s response was that the cross-access issue was debated several years ago and is not permitted for this project. The traffic signal, if warranted, is covered by a condition of approval. There was also a discussion between Commissioner Davis and Mr. Ratterree regarding workforce housing and the current residential market demand. Mr. Ratterree explained they have moved their units to respond to current market demands so they are selling. Commissioner Hyman questioned the limited ability to cross the canal and the agent responded that this is compensated for by each pod having its own recreation facility.

There were 6 conditions amended and 1 deleted on the add/delete, and one additional amendment to Civic condition 5 mentioned by staff. In addition, the agent brought up 2 new conditions recommended by adjacent property owners for landscaping the east buffer (Landscape Condition 8) and rodent control during site development (PUD Condition 12) and a new condition (Civic Condition 6) from PREM.

MOTION: Motion made by Commissioner Zucaro, seconded by Commissioner Kaplan, to receive and file two handouts to commissioners, carried 7-0.

Documents submitted:
1) Letter from Alliance of Delray Residential Associations
2) Additional landscaping conditions of approval

MOTION: To recommend approval of a Development Order Amendment to reconfigure master plan, add units, allow a model row, modify conditions of approval (PUD and PREM), and restart the commencement clock. Carried 7,0.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Maker		Secunder			

Meeting adjourned at 10:40 a.m.

**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](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](mailto:vleveille@pbcgov.com)

U:\Zoning\Public Hearing\ZC\2009\04-apr-09\April ZC Minutes.doc