

**PRELIMINARY MINUTES
ZONING COMMISSION
ZONING MEETING**

FRIDAY, DECEMBER 4, 2009
9:00A.M. 1ST Floor
Vista Center
2300 N. Jog Road, West Palm Beach, FL 33411

CALL TO ORDER

- A. Roll Call 9:00 A.M.**
Commissioner William F. Anderson, Chairman
Commissioner Sherry Hyman, Vice Chair
Commissioner Allen Kaplan
Commissioner Sheri Scarborough
Commissioner Joanne Davis –arrived 9:04 a.m.
Commissioner Alex Brumfield

- B. Opening Prayer and Pledge of Allegiance**

- C. Remarks of the Chair**

The Zoning Commission of Palm Beach County has convened at 9:00 A.M. in the Vista Center 1st Floor Hearing Room VC-1W-47, 2300 N. Jog Road, West Palm Beach, FL, to consider applications for Official Zoning Map Amendments, Planned Developments, Conditional Uses, Development Order Amendments, Type II Variances and other actions permitted by the Palm Beach County Unified Land Development Code and to hear the recommendations of staff on these matters. The Commission may take final action or issue an advisory recommendation on accepting, rejecting or modifying the recommendations of staff. The Board of County Commissioners of Palm Beach County will conduct a public hearing at 301 N. Olive Avenue, West Palm Beach, FL, in the Jane M. Thompson Memorial Chambers, 6th Floor, at 9:30A.M. on Thursday, January 7, 2010 to take final action on the applications listed below.

- D. Proof of Publication**

- E. Swearing In**

- F. Adoption of the Minutes - 6-0**

Brumfield	Davis	Hyman	Anderson	Scarborough	Kaplan
Yes	Yes	Yes	Yes	Yes	Yes
		Maker			Seconded

- G. Disclosures**

Brumfield	Davis	Hyman	Anderson	Scarborough	Kaplan
None	None	None	None	None	None

POSTPONEMENTS/REMANDS/WITHDRAWALS AGENDA

- A. POSTPONEMENTS**

- B. REMANDS**

C. WITHDRAWALS

1. DECISION: WITHDRAWN

ZV-2009-02685 Title: a Type II Variance application of Richard Fulcher by Land Design South Inc., Agent. Request: to allow a reduction in required parking spaces. General Location: Approximately 0.5 miles east of the intersection of Okeechobee Blvd. and Jog Road. **(VISTA CENTER PARCEL 23 - SUBPARCEL 5)** (Control 1984-00130)

Pages 1 - 1

Project Manager: Douglas Robinson

Size: 1.14 acres ±

BCC District: 2

MOTION: None required. Application withdrawn by applicant.

END OF POSTPONEMENTS/REMANDS/WITHDRAWALS

CONSENT AGENDA

A. REQUESTS TO PULL ITEMS FROM CONSENT

B. STATUS REPORTS

C. PREVIOUSLY POSTPONED ZONING APPLICATIONS

D. ZONING APPLICATIONS - NEW

2. DECISION: APPROVED AS ADVERTISED

ZV/DOA-2009-00564 Title: a Type II Variance application of Sun Trust Bank by CPH Engineers Inc., Agent. Request: to allow an easement encroachment in the right-of-way buffer. Title: a Development Order Amendment application of Sun Trust Bank by CPH Engineers Inc., Agent. Request: to reconfigure the site plan. General Location: Northwest corner of North Military Trail and Old Clint Moore Road. **(POLO CLUB SHOPPES)** (Control 1986-00090)

Pages 2 - 36

Conditions of Approval Pages (22 - 25)

Project Manager: Joyce Lawrence

Size: 13.65 acres ±

BCC District: 5

(affected area 0.91 acres ±)

People who spoke on this application:

Ryan Grindler

General Discussion:

Ryan Grindler, a representative for the applicant, objected to Engineering Condition No. 7, that requires a revised plat prior to issuance of the first building permit. The applicant shall revise the limits of Tract A and C as the proposed building relocation will be encroaching the lot lines of the plat which is prohibited. However the building is currently north and is not encroaching the lot line.

The Engineering Director, Ken Rogers responded that the original developer had platted the outside wall line of a building and had defined that as a building tract line with the other portion of the subject site platted as a separate

parcel of land with a blanket utility easement over that entire other parcel. The building tract is indicated as Tract A and the parking lot is Tract C. Mr Rogers explained that it was a different matter if a structure was built over the plat line due to poor surveying but to take a parcel of land and deliberately construct a proposed building across the lot line is not allowed in Palm Beach County. The applicant indicated that prior to 1992 the Building Department did allow a Unity of Title to combine 2 parcels of land, not to eliminate a common property line but to primarily combine the parcels in ownership only. Mr Rogers stated that he is aware that the applicant is experiencing financial difficulties but he had spoken with the perspective lessee of the property and gave them options that would possibly reduce the amount of time to get the building permit and at the same time allow them to stay within the rules and regulations of Palm Beach County. He stated that these rules and regulations cannot be waived nor can the Zoning Commission waive that provision of the Code.

Commissioner Hyman stated that the Unity of Title provision is not limited to accessory uses. The Engineering Director replied that this could be so in other jurisdictions but it is not allowed in the way our Subdivision Ordinance is written in Palm Beach County.

The applicant stated that this condition is a great hardship and they are experiencing an incredibly tight timeframe and budget. The proposal would allow a reduction in intensity; the building has been vacant for 2 years, there will be an opportunity to create jobs and construction dollars. He also stated that the developer would have never developed the property if he had known that in the future he could not build over the plat line and that they should be entitled to do the proposal under the prior approval when the subject parcel was platted.

Commissioner Hyman replied that even though she agreed with the applicant and that he should be able to continue under the prior approval, the argument to grandfather the proposal and not replat is not permitted. The applicant will have to adhere to the current Code as the Zoning Commissioners do not have the authority to over rule the existing Ordinances.

Mr. Banks stated that the Land Development Director interprets the Subdivision Code and had offered his interpretation. Commission Davis inquired how often this type of issue comes up. The Engineering Director responded that in his 18 years of employment this was the first time the issue came up.

After a lengthy discussion on the above issue, the Zoning Commission voted unanimously 6-0 in support of the requests and the conditions of approval as indicated.

MOTION: To adopt a resolution approving a Type II Zoning Variance to allow a utility easement encroachment into the 15-foot required buffer subject to the Conditions of Approval as indicated in Exhibit C-1. Carried 6-0.

Brumfield	Davis	Hyman	Anderson	Scarborough	Kaplan
Yes	Yes	Yes	Yes	Yes	Yes
		Maker			Seconded

MOTION: To recommend approval of a Development Order Amendment to reconfigure the site plan subject to the Conditions of Approval as indicated in Exhibit C-2. Carried 6-0.

Brumfield	Davis	Hyman	Anderson	Scarborough	Kaplan
Yes	Yes	Yes	Yes	Yes	Yes
		Maker			Seconded

3. DECISION: POSTPONED to January 8, 2010

(Item postponed on the add/delete sheet)

Z/DOA-2009-00205 Title: an Official Zoning Map Amendment application of Church Of God At Palm Beach Gardens by Cotleur & Hearing Inc., Agent. Request: to allow a rezoning from the Residential Single-family (RS) Zoning District to the Residential Transitional (RT) Zoning District. Title: a Development Order Amendment application of Church Of God At Palm Beach Gardens by Cotleur & Hearing Inc., Agent. Request: to reconfigure the site plan. General Location: Northwest corner of Lone Pine Road and Prosperity Farms Road. **(MARANATHA CHURCH)** (Control 1973-00160)

Pages 37-61

Conditions of Approval Pages (56 - 60)

Project Manager: Carol Glasser

Size: 12.47 acres ±

BCC District: 1

MOTION: Postponed by right. No motion required.

4. DECISION: APPROVED AS AMENDED

CB/CA-2009-01498 Title: a Class B Conditional Use application of Jeff Smith by Frogner Consulting Inc., Agent. Request: to allow indoor entertainment. Title: a Class A Conditional Use application of Jeff Smith by Frogner Consulting Inc., Agent. Request: to allow a dispatch office with more than three vehicles. General Location: South of Westgate Avenue, east side of Military Trail. **(MILITARY TRAIL JUMP N SLIDE)** (Control 1980-00228)

Pages 62 - 88

Conditions of Approval Pages (80 - 83)

Project Manager: David McGuire

Size: 2.57acres ±

BCC District: 2

MOTION: To adopt a resolution approving a Class B Conditional Use to allow indoor entertainment subject to the Conditions of Approval in Exhibit C-1. Carried 6-0.

Brumfield	Davis	Hyman	Anderson	Scarborough	Kaplan
Yes	Yes	Yes	Yes	Yes	Yes
Seconded		Maker			

MOTION: To recommend approval of the Class A Conditional Use to allow a dispatch office with more than three vehicles subject to the Conditions of Approval as indicated in Exhibit C-2. Carried 6-0.

Brumfield	Davis	Hyman	Anderson	Scarborough	Kaplan
Yes	Yes	Yes	Yes	Yes	Yes
Seconded		Maker			

E. CORRECTIVE RESOLUTIONS

F. SUBDIVISION VARIANCE

5. DECISION: APPROVED AS ADVERTISED

SD-137 Petition of MPC 3, LLC, requesting variance from the requirements that no direct access to a major street be allowed for subdivision lots. Requirements are set forth in the Unified Land Development Code, Article 11.E.9.D.2. Location: North Cleary Road, south of Belvedere Road and east of the Florida Turnpike, in the PIPD Zoning District.

Pages 89-98

MOTION: To adopt a resolution approving a Type II Subdivision Variance to allow two access points to the proposed subdivision lot via a major street. Carried 6-0.

Brumfield	Davis	Hyman	Anderson	Scarborough	Kaplan
Yes	Yes	Yes	Yes	Yes	Yes
		Maker		Seconded	

END OF CONSENT AGENDA

REGULAR AGENDA

- A. ITEMS PULLED FROM CONSENT**
- B. STATUS REPORTS**
- C. PREVIOUSLY POSTPONED ZONING APPLICATIONS**
- D. ZONING APPLICATIONS - NEW**
- E. SUBDIVISION VARIANCE**

END OF REGULAR AGENDA

DIRECTOR COMMENTS

- A. COUNTY ATTORNEY**
- B. ZONING DIRECTOR**

6. Zoning Commission Members - Contact by the public

General Discussion:

Due to the recent surge in requests to contact the Zoning Commissioners by interested parties, Jon MacGillis, Zoning Director, asked the Commission to clarify their position on being contacted by the public.

The Commissioners agreed to have all requests to contact the Commission go through the Zoning Division, preferably in e-mail format, and Zoning Staff will then document and forward to the Zoning Commissioners.

- C. EXECUTIVE DIRECTOR**

COMMISSIONER COMMENTS

ADJOURNMENT

Meeting adjourned at 9:27 a.m.