

**PALM BEACH COUNTY
ZONING COMMISSION**
THURSDAY, March 5, 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
Allen Kaplan, Commissioner
Joanne Davis, Commissioner
Sheri Scarborough, Commissioner
Kelley Armitage, Alternate Commissioner
Richard Bowman, Alternate Commissioner

Commissioners Al Zucaro, and Alex Brumfield, III, arrived after role call and before any voting took place.

County Staff Present:

Robert Banks, Assistant County Attorney
Barbara Alterman, Director Planning, Zoning & Building
Jon MacGillis, Zoning Director
Maryann Kwok, Chief Planner
Wendy Hernandez, Zoning Manager
Robert Kraus, ERM
Joanne Koerner, Land Development
Ken Rogers, Director Land Development
Sussan Gash, Planning Division
Michael Owens, School Board
Kenny Wilson, Health Department
Autumn Sorrow, Senior Site Planner, Zoning
Ron Sullivan, Senior Site Planner, Zoning
Carrie Rechenmacher, Senior Site Planner, Zoning
Andrea Harper, Site Planner II, Zoning
Joyce Lawrence, Site Planner II, Zoning
Carol Glasser, Site Planner II, Zoning
Donna Adelsperger, Site Planner I, Zoning
Eileen Platts, Secretary, Zoning

Stacey Smalls, Secretary – Prepared Minutes

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

Opening prayer and Pledge of Allegiance

Proof of Publication – Zoning Director submitted and accepted by Commissioners. Carried 7-0

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

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

Commissioner Hyman suggested that the adoption of the minutes be placed before the list of items on the agenda. Regarding the minutes, Commissioner Hyman stated that the vote on item number 13 was incorrect; Commissioners Hyman and Kaplan voted against item 13 and Commissioner Davis voted in favor of item 13. Commissioner Hyman also stated that number 19 was missing some information that was discussed; more specifically Commissioner Hyman wanted the record to reflect that she and other commissioners wanted to keep the consent

agenda the way it is. Mr. MacGillis indicated that staff would note these corrections on the adopted minutes. With these modifications the board adopted the minutes.

Adoption of Minutes – Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Moved					Seconded

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	None	None	None	None	None	

POSTPONEMENTS/REMANDS/WITHDRAWALS

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

Staff: Andrea Harper

Agent: N/A

Public: N/A

Discussion: None

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

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
		Seconded					Moved	

2. ZV/ABN/Z-2008-01905 Colonial Inn

Staff: Douglas Robinson

Agent: N/A

Public: N/A

Discussion: None

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

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
					Seconded		Moved	

3. ZV/DOA-2008-01684 Resident Service Center

Staff: Carol Glasser

Agent: N/A

Public: N/A

Discussion: None

MOTION: To postpone thirty (30) days to Thursday, April 2, 2009. Carried. .

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
					Seconded		Moved	

10. PDD-2008-01035 Morikami Park Nursing Center

Staff: Ora Owensby

Agent: N/A

Public: N/A

Discussion: None

MOTION: To postpone sixty (60) days to Thursday May 7, 2009. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
					Seconded		Moved	

CONSENT AGENDA

4. ZV/PDD/DOA/W/R-2008-01369 Moroso Circle Track

Staff: Ronald Sullivan
 Agent: George Gentile – Agreed to all conditions of approval
 Public: N/A
Discussion: None

MOTION: To adopt a Resolution approving 11 Type II Zoning Variances: to allow more than 3 freestanding buildings in an MUPD; to allow parking in excess of 600 feet from the building it serves; to allow more than 1 electronic message center in a project; to allow more than 3 freestanding signs and to allow the maximum height of one of those freestanding signs to exceed 15 feet; to allow on-site directional signs to be closer than 200 feet from the perimeter of the project; and to eliminate the 5-foot compatibility buffers adjacent to the Pine Glades Natural Area on the northeast, northwest, west, north and east perimeter buffers. Carries 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Moved				Seconded	

MOTION: To recommend approval of an Official Zoning Map Amendment rezoning from the Agricultural Residential (AR) Zoning District and the Light Industrial (IL) Zoning District to the to the Multiple Use Planned Development (MUPD) District. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Moved				Seconded	

MOTION: To recommend approval of a Development Order Amendment to add land area and reconfigure the site plan. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Moved				Seconded	

MOTION: To recommend approval of a Waiver to allow a deviation from Architectural Guidelines. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Moved			Seconded		

MOTION: To recommend approval of Requested Uses to allow arena; auditorium or stadium; entertainment, outdoor; auction, outdoor; auto paint and body; convenience store with gas sales; manufacturing and processing; and vehicle sales and rental and to recommend approval of an Alternative Sign Plan. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Moved				Seconded	

5. Z/CA-2007-01608 RaceTrac Haverhill

Staff: Joyce Lawrence
 Agent: Gary Brandenburg – Agreed with all conditions of approval. Mr. Brandenburg stated that his traffic consultant is working with the

Engineering Division on a Condition of Approval that may be modified between now and the BCC hearing.

Public: N/A

Discussion: Commissioner Hyman stated that she did have a brief conversation with Gary last month before the application was postponed. Commissioner Hyman wants to know what happen to the maps of all the gas stations in the area that they use to get. Jon MacGillis stated they disappeared but he will get her the requested maps.

MOTION: To recommend approval of an Official Zoning Map Amendment rezoning from Residential Multi-Family (RM) Zoning District to the Commercial General (CG) Zoning District. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
	Seconded		Moved					

MOTION: To recommend approval of a Class A Conditional Use to allow a Convenience Store with Gas Sales. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
	Seconded		Moved					

6. ZV/DOA-2008-01698 Manheim Palm Beach MUPD

Staff: Carol Glasser

Agent: Collene Walter – Agreed with all conditions of approval and stated she is working with staff on the final language of the landscape condition number 9 on the add/delete agenda to be resolved before BCC.

Public: N/A

Discussion: Commissioner Davis wanted to know the reason for eliminating the interior trees. Collene Walter explained that it is an auto auction use and clarified the variance is to allow for unencumbered bull-pen parking.

MOTION: To adopt a resolution approving Type II Variances to eliminate terminal islands, interior islands, divider medians, interior trees, and interior shrubs in the vehicle storage area; allow a reduction in pervious area; allow a barbed wire fence within the setback; and allow parking spaces beyond 600 feet from a building entrance. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
	Seconded						Moved	

MOTION: To recommend approval of a Development Order Amendment to add land area and square footage, reconfigure the site plan, restart the commencement clock, delete conditions of approval contained within R2004-2423, and modify a condition of approval (Engineering). Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
	Seconded						Moved	

7. ZV/PDD-2008-01525 Turnpike Crossing East Industrial Property

Staff: Carol Glasser

Agent: Chris Barry – Agreed with conditions of approval and stated that he is working with staff on the timing of a landscaping and an engineering condition.

Public: N/A

Discussion: None

MOTION: To adopt a resolution approving Type II Variances to allow an elimination of a perimeter buffer; a reduction of parking spaces; an elimination of loading area screening; an elimination of loading area roofs; a freestanding sign to abut a street with no access; and, a reduction in setback for the freestanding sign. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
	Seconded						Moved	

MOTION: To recommend approval of an Official Zoning Map amendment to allow a rezoning from the Planned Unit Development (PUD) Zoning District to the Planned Industrial Park Development (PIPD) Zoning District. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
	Seconded						Moved	

8. DOA-2008-01910 Innovation Center

Staff: Joyce Lawrence

Agent: George Gentile – Agreed with all conditions of approval including those on add/delete.

Public: N/A

Discussion: None

MOTION: To recommend approval of a Development Order amendment to reconfigure the site plan to add square footage, to modify conditions of approval (Building and Site Design and Landscape), and to add one (1) access point. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
	Seconded						Moved	

11. Z-2008-01909 DuBois Park Rezoning

Staff: Ora Owensby

Agent: George Gentile – Agreed with voluntary commitments.

Public: N/A

Discussion: None

MOTION: To recommend approval of an Official Zoning Map Amendment to allow a rezoning from the Single Family Residential (RS) Zoning District to the Public Ownership (PO) Zoning District. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
					Seconded		Moved	

12. ABN/Z/CA-2008-00447 West Jupiter Community Center

Staff: Autumn Sorrow

Agent: Jan Polson – Agreed with condition of approval but, still working with ERM and the Engineering Division on minor modification to the conditions of approval.

Public: N/A

Discussion: Commissioner Hyman commented on elevations, and asked if the roof was flat and what the building was made of. Jan explained the proposed use is a Not for Profit institution use and that the building elevations were reviewed and approved by the ARCH staff and confirmed that part of the roof was flat and that the building material was stucco. Commissioner Hyman asked if they could do something with the landscaping and the architecture, but does not want to put burden on project. Commissioner Anderson recommended additional trees on site.

MOTION: To recommend approval of Development Order Abandonment of Resolution R-95-522 which approved a Class A Conditional Use for Government Service use. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Moved				Seconded	

MOTION: To recommend approval of an Official Zoning Map Amendment rezoning from the Residential Transitional Urban (RTU) Zoning District to the Residential Single-Family (RS) Zoning District. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Moved				Seconded	

MOTION: To recommend approval of a Class A Conditional Use to allow for a Daycare, General. Carried 7-0

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
			Moved				Seconded	

REGULAR AGENDA

9. DOA-2008-01367 Hyder AGR-PUD

Staff: Ora Owensby

Agent: Kevin Ratterree

Public: Mary Urban – Urged Commissioners to vote no on this project.

Discussion: Commissioner Davis made a motion to move this item from the Consent agenda to the Regular Agenda for discussion, seconded by Commissioner Hyman.

Commissioner Davis stated that it is the intent of the Comprehensive Plan to preserve agriculture and for water resource management and that she has objections to state-owned property being used for a preserve for an AGR-PUD. Mr. Ratterree stated that the South Florida Water Management District has the same ownership rights as other property owners. The County Attorney and the Board of County Commissioners have discussed and approved this process and GL Homes is following the rules. Commissioner Davis responded that this is a case of a government agency giving credit to a developer. Commissioner Kaplan stated he agreed with Commissioner Davis and would vote against the project. Mr. Banks stated that the Water Management District through the years has resisted retiring its development rights. The land is an asset of the District and the District has obtained millions to fund District projects. Commissioner Davis stated that publicly owned land development rights should have been retired. Commissioner Bowman mentioned the Appolonia project. Mr. Ratterree responded that GL agreed to retire the development rights after the approvals of Amestoy and Lyons West and Hyder. A total of 1,334 credits was the original number and approximately 1,150 units of those have been utilized. For the total 1,334 units, GL Homes paid 30 million to the District. Commissioner Hyman stated that we are compelled to support the project. Commissioner Anderson verified that the density of the development area is around 2.4 units per acre. Commissioner Zucaro stated that the maker of the motion needs to give justification; the evidence is for approval and there is no evidence for denial. Commissioner Hyman stated that the site plan as proposed is dense, but has no objection to the overall plan.

Commissioner Kaplan moved for denial, seconded by Commissioner Davis. Motion failed 5-2.

MOTION: To recommend approval of a Development Order Amendment to reconfigure the master plan, increase number of units, to amend a condition of approval (Engineering), create a model row, and restart the commencement clock. Carried 5-2

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	No	Yes	Yes	Yes	Yes	No	
					Seconded	Moved		

13. Z-2008-01669 Peanut Island Rezoning

Staff: Donna Adelsperger and Maryann Kwok

Agent: N/A (Palm Beach County)

Public: Cynthia Lindskoog from Town of Palm Beach Shores, I am here to tell the commissioner that we are not sure what our position is as we have a new commission we are presenting to our board in March and reserved the right to address our concerns or no concerns at the BCC after there commission meeting.

Gerald Harris from the City of Riviera Beach requested the letter from the city be read into the record.

Discussion: At the hearing, Zoning Division staff provided history of prior postponements; the adjacent municipalities' concerns on the noise generated by activities on the island, and the Maritime Museum's concerns on the use limitations imposed by Ordinance 2001-083 of the Land Use Amendment and the current Rezoning request.

Representative of the Town of Palm Beach Shores indicated they have no position at this time as they have a new mayor and the Town Council would like to reserve the right to update the County at the March BCC hearing.

A letter from City of Riviera Beach was read into record by staff. Generally, the City supports the rezoning, but is still objecting to a restaurant use on the island since it will create additional strain on their police and fire departments. The patrons of the island are already using what limited parking is available at the city's marina. Additional commercial uses on the island would further increase the demand on the existing parking capacity. If the ZC decides to allow the operation even as an accessory use to the museum, the City would request that a provision be included to require additional Riviera Beach police be hired to handle the increase in automobile and pedestrian traffic. In addition, a waste program should be implemented on the island to prevent patrons from utilizing the trash receptacles at the City's marina.

Mr. Mark Osherow and Mr. John Grant representing the Maritime Museum spoke regarding the prohibition of the restaurant even as an ancillary use, and indicated that it is the Museum's right to have the restaurant/café under the lease agreement with the Port of Palm Beach. They opposed to the County's recommendation that the Museum should file for an amendment to Ordinance 2001-083 to remove the restriction. Mr. Osherow questioned whether the 2001 Land Use Amendment was officially adopted.

The Assistant County Attorney explained that the Future Land Use Atlas was sent to DCA unchallenged and is in effect. Zoning Division staff added that the condition placed on the 2001 Land Use Amendment was also carried forward to the rezoning application as a reminder of the use restrictions for the island.

Discussions on the restaurant and other food service such as vending machines, prepackage food, catering and whether these food services could be included in the price for the museum or event on the island and how that could be accomplished within the current limitation condition were raised at the hearing. Barbara Alterman upholds the opinion that no restaurant or retail sales are allowed on the island even as an ancillary use until such time as the BCC chooses to change the restriction. She mentioned that between 2000 and 2001, the BCC had held many workshops and discussed at lengths principal, accessory and ancillary commercial uses on the island, the BCC direction on no commercial use on the island is clear.

The ZC recognized their position as a recommendation board on the rezoning application, and voted 7-0 for approval of the request; however, has also taken into consideration the Museum's plea for limited food services to be provided within their facility, the ZC added a recommendation that the BCC consider some ancillary uses for food and beverage within the museum subject to the existing code and health regulations.

MOTION: To recommend approval of an Official Map Amendment from the Preservation/Conservation (PC) Zoning District to the Public Ownership (PO) Zoning District with a Conditional Overlay Zone. . Carried

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
	Seconded					Moved		

14. ZV/Z/CA-2008-01915 Boys and Girls Club

Staff: Autumn Sorrow
 Agent: Michael Sanchez
 Public: Mary O’Conner, CEO of Boys and Girls Club, stated that the facility is needed to serve the 4,000 homes in the area.

Discussion: Commissioner Kaplan wanted to know why this item wasn’t on the consent agenda. Staff answered that letters of opposition were received by the public; therefore the item was placed on the regular agenda. Commissioner Davis asked about the possibly of providing a park since that’s what was planned and that’s what the residents are expecting. Ross Herring, with PREM, stated that a park is not a viable use for that location and that the County is looking at offering affordable housing in the vicinity. Commissioner Anderson stated that the proposed pool is too close to the residents and wants the applicant to relocate the pool away from the residences.

MOTION: To adopt a resolution approving a Type II Variance to allow a reduction of the required parking. Carried

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

MOTION: To recommend approval of an Official Zoning Map Amendment rezoning from the Public Ownership (PO) Zoning District to the Single-Family Residential (RS) Zoning District. Carried

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

MOTION: To recommend approval of a Class A Conditional Use to allow for an Assembly, Non-Profit Institutional use. Carried

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

15. W/PDD/R-2008-01902 Carlyle Senior Housing

Staff: Andrea Harper
 Agent: Bradley Miller
 Public: Ted Jako talked about concerns relating to increased density, traffic, the recently approved Woodwind WFH project, the need for a CLF, and nuisances such as lighting and delivery trucks. Mr. Jako is concerned that a CLF will change the character of the neighborhood. Mr. Jako has concerns that random rezonings result in a lack of planning in the county and that developers are looking for a bailout. Mr. Jako inquired why the petition he submitted with the accompanying small scale amendment was not included in the rezoning application.

Discussion: Commissioner Davis asked if project was age restricted and if it is planned to be assisted living. Mr. Miller confirmed that the project is planned to be independent living with some assisted living facility units. Ted Jako stated that the way the Code defines CLFs, a halfway house could go on-site. Mr. Miller stated that he is willing to accept a condition of approval only allowing age restricted units. Commissioner Anderson asked about the buffering and landscaping from residents; Mr. Miller showed renderings of elevations with adequate screening.

MOTION: to recommend approval of a Waiver to allow a reduction in the required frontage for a Planned Development District. Carried

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

MOTION: to recommend approval of an Official Zoning Map Amendment rezoning from the Residential Transitional (RT) Zoning District to the Planned Unit Development (PUD) Zoning District. Carried

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

MOTION: to recommend approval of a Requested Use to allow a Type III Congregate Living Facility. Carried

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

Meeting adjourned at 11:15am.

*Note: Commissioner Zucaro left at 10:55 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

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