

**PRELIMINARY MINUTES  
ZONING COMMISSION  
ZONING MEETING**

THURSDAY OCTOBER 1, 2009  
9:00A.M. 1<sup>ST</sup> 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 Al Zucaro  
Commissioner Sheri Scarborough  
Commissioner Kelley Armitage, Alternate

Commissioner Joanne Davis – Arrived at 9:11 a.m.  
Commissioner Alex Brumfield – Arrived at 9:24 a.m.

**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-IW-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 9:30 A.M. on Thursday, October 22, 2009 to take final action on the applications listed below.

**D. Proof of Publication**

**E. Swearing In**

**F. Adoption of the Minutes - as amended, carried 6-0. Commissioner Hyman suggested to delete the reference that the Commissioners spoke on the last item.**

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

**G. Disclosures**

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
None	Absent	Absent	Item 7	Item 2	Items 5, 6, 10	None	Item 2	Absent

**POSTPONEMENTS/REMANDS/WITHDRAWALS AGENDA**

**A. POSTPONEMENTS**

**1. DECISION: POSTPONED 30 DAYS TO NOVEMBER 5, 2009**

**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**: To postpone 30 days to November 05, 2009. Carried 6-0.

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

**2. DECISION: POSTPONED 30 DAYS TO NOVEMBER 5, 2009**

**DOA-2009-02672** Title: a Development Order Amendment application of Centers Southland by Land Design South Inc., Agent. Request: to amend a Condition of Approval (Use Limitation). General Location: Northeast corner of Jog Road and Lake Ida Road. **(Spalding Property)** (Control 1999-00092)

Pages 2-2  
 Project Manager: Ora Owensby  
 Size: 25.82 acres ± BCC District: 5

**MOTION**: To postpone 30 days to November 05, 2009. Carried 6-0.

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

**3. DECISION: POSTPONED 30 DAYS TO NOVEMBER 5, 2009**

**DOA/CA-2008-01358** Title: a Development Order Amendment application of BDG Delray LLC by Jon E Schmidt & Associates, Agent. Request: to add square footage, reconfigure site plan and to modify and delete conditions of approval. Title: a Class A Conditional Use application of BDG Delray LLC by Jon E Schmidt & Associates, Agent. Request: to allow for the expansion of the previously approved Convenience Store with Gas Sales. General Location: Southwest corner of US 441 and Atlantic Avenue. **(Stop & Shop)** (Control 1999-00029)

Project Manager: Wendy Hernandez  
 Size: 5.10 acres ± BCC District: 5

**MOTION**: To postpone 30 days to November 5, 2009. Carried 6-0.

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

**5. DECISION: POSTPONED 30 DAYS TO NOVEMBER 5, 2009 (ON ADD/DELETE)**

**PDD/TDR-2008-01907** Title: an Official Zoning Map Amendment to a Planned Development District application of Anthony House, Anthony Lasala by Popper and Associates, Agent. Request: to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Planned Unit Development (PUD) Zoning District. Title: a Transfer of Development Rights application of Anthony House, Anthony Lasala by Popper and Associates, Agent. Request: to allow the Transfer of Development Rights for 89 units, approve the reduced cost of \$1.00 per unit, and designate the subject property as the receiving area. General Location: Approximately 1000 feet north of Hypoluxo Road, on the east side of Military Trail. **(Southern Trails PUD)** (Control 2003-00501)

Pages 59-109

Conditions of Approval Pages (94- 101)

Project Manager: Ora Owensby

Size: 21.80 acres ±

BCC District: 3

**MOTION:** To postpone 30 days to November 5, 2009. Carried 6-0.

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

**B. REMANDS**

**C. WITHDRAWALS**

**END OF POSTPONEMENTS/REMANDS/WITHDRAWALS**

*Commissioner Davis arrived at 9:11 a.m.*

**CONSENT AGENDA**

**A. REQUESTS TO PULL ITEMS FROM CONSENT**

**B. STATUS REPORTS**

**C. PREVIOUSLY POSTPONED ZONING APPLICATIONS**

**4. DECISION: APPROVED AS AMENDED**

**ZVIW/DOA-2008-01900** Title: a Type II Zoning Variance application of KRG Atlantic Delray Beach LLC by Urban Design Kilday Studios, Agent. Request: to eliminate the percentage of transparency for the building design of Building I (Theater and Bowling Alley). Title: a Waiver from Traditional Development District parking structures in the Agricultural Reserve Tier application of KRG Atlantic Delray Beach LLC by Urban Design Kilday Studios, Agent. Request: to allow surface parking in excess of 1 space per 250 square feet of non-residential floor area. Title: a Development Order Amendment application of KRG Atlantic Delray Beach LLC by Urban Design Kilday Studios, Agent. Request: to reconfigure the site plan, reduce the number of dwelling units and commercial square footage, restart the commencement clock, and modify and delete Conditions of Approval (Building and Site Design, Planning). General Location: Northwest corner of West Atlantic Avenue and future Lyons Road. **(Delray Marketplace)** (Control 2004-00616)

Pages 3-58  
 Conditions of Approval Pages (31 - 48)  
 Project Manager: Carol Glasser  
 Size: 88.33 acres ±  
 (affected area 32.82 acres ±)

BCC District: 5

**Public comment cards received – Jeff Snow**

**People who spoke on this application:**

Wendy Tuma, Urban Design Kilday Studios  
 Jeff Snow

**General Discussion:**

Wendy Tuma, agent, agreed to conditions of approval.  
 Jeff Snow, a surrounding property owner, suggested the petitioner be required to notify residential buyers of “Florida’s Right to Farm Act”.

**MOTION:** To adopt a resolution approving a Type II Variance to eliminate the percentage of transparency for the building design of Building I (Theater and Bowling Alley) subject to the Conditions of Approval as indicated in Exhibit C-1. Carried 7-0.

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

**MOTION:** To recommend approval of a Development Order Amendment to reconfigure the site plan, reduce the number of dwelling units and commercial square footage, restart the commencement clock, and modify and delete Conditions of Approval (Building and Site Design, Planning) subject to the Conditions of Approval as indicated in Exhibit C-3. Carried 7-0.

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

**D. ZONING APPLICATIONS NEW**

**6. ZV/DOA/R-2009-02692** – *Item was reordered to the end of the agenda because agent was not present. Motion carried 7-0.*

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

**7. ZV-2009-2682** – *Item was moved to the regular agenda, a public comment card in opposition was received.*

**8. DECISION: APPROVED AS ADVERTISED**

**DOA-2009-02691** Title: a Development Order Amendment application of Mission Lakes I LLC, Mission Lakes II LLC, Mission Lakes III LLC, Mission Lakes LLC Target Corporation by Urban Design Kilday Studios, Agent. Request: to modify a Condition of Approval (Landscaping). General Location: Northeast corner of SR7/US441 and Lantana Road (**Mission Lakes MUPD**) (Control 2003-00007)

Pages 172-221  
 Conditions of Approval Pages (186-200)  
 Project Manager: Carol Glasser  
 Size: 37.85 acres ±

BCC District: 2

(affected area 3.62 acres ±)

**General Discussion:**

Wendy Tuma, Urban Design Kilday Studios, agreed to the conditions of approval.

**MOTION:** To recommend approval of a Development Order Amendment to modify a Condition of Approval (Landscaping) subject to the Conditions of Approval as indicated in Exhibit C. Carried 7-0.

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

**9. DECISION: APPROVED AS ADVERTISED**

**DOA-2009-02674 Title:** a Development Order Amendment application of Commons Atlantic by Atlantic Commons Associates LLLP, Agent. **Request:** to reconfigure the Master Plan, change unit types, allow a model row, and modify and delete Conditions of Approval (PUD and Landscape). **General Location:** Northeast corner of Atlantic Avenue and Florida Turnpike (**Atlantic Commons PUD**) (Control 2004-00525)

Pages 222 - 265

Conditions of Approval Pages (241 - 253)

Project Manager: Ora Owensby

Size: 124.20 acres ±

BCC District: 5

**General Discussion:**

Kevin Ratterree, Atlantic Commons Associates, LLLP, agreed to the conditions of approval.

**MOTION:** To recommend approval of a Development Order Amendment to reconfigure the previously approved Master Plan, change unit types, allow a model row and delete and amend PUD and Landscape conditions of approval subject to Conditions of Approval as indicated in Exhibit C. Carried 7-0.

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

**E. CORRECTIVE RESOLUTIONS**

**F. ABANDONMENTS**

**END OF CONSENT AGENDA**

**REGULAR AGENDA**

**A. ITEMS PULLED FROM CONSENT**

**B. STATUS REPORTS**

**C. PREVIOUSLY POSTPONED ZONING APPLICATIONS**

**D. ZONING APPLICATIONS - NEW**

*Commissioner Brumfield arrived at 9:24 a.m.*

**7. DECISION: APPROVED AS ADVERTISED**

**ZV-2009-02682** Title: a Type II Variance application of MPC 3 LLC by McCraney Property Co., Agent. Request: to allow outdoor entertainment use activities to be operated outside of an enclosed building within the Palm Beach International Airport Overlay and to eliminate a landscape barrier wall. General Location: Southwest corner of Belvedere Road and Cleary Road. **(Fun Depot)** (Control 2002-00011)

Pages 155-171  
 Conditions of Approval Pages (165- 165)  
 Project Manager: Carol Glasser  
 Size: 9.02 acres ± BCC District: 6

**Public comment cards received – Chesley Saunders**

**People who spoke on this application:**  
 Andy Jacobsen, McCraney Property Company  
 Edward Nabhan, Fun Depot  
 Chesley Saunders

**General Discussion:**  
 Andy Jacobsen, McCraney Property Co., agreed to the conditions of approval. Edward Nabhan, Fun Depot, and Andy Jacobsen addressed Mr. Saunders concerns.

Chesley Saunders, a property owner in Terracina, objects to the noise levels and security issues associated with outdoor entertainment. Mr. Saunders also raised concerns regarding hours of operation, decreased property values and quality of life.

**MOTION:** To adopt a resolution approving Type II Variances to allow outdoor entertainment use activities to be operated outside of an enclosed building within the Palm Beach International Airport Overlay and to eliminate a landscape barrier wall in the east right-of-way landscape buffer subject to the Conditions of Approval as indicated in Exhibit C. Carried 7-0.

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

**10. DECISION: APPROVED AS AMENDED**

**ZV-2009-03300** Title: a Type Healthcare System Inc by Urban Design Kilday Studios, Agent. Request: to allow the reduction of interior tree and shrub quantities; to eliminate the wall within the landscape buffer along the north and east property lines; to allow internally lit signage for building signage, and to allow Temporary Non-Residential Development Signs in excess of 32 square feet. General Location: Northeast corner of Boynton Beach Boulevard and State Road 7. **(Bethesda West Hospital)** (Control 2006-00011)

Pages 266-291  
 Conditions of Approval Pages (286 - 286)  
 Project Manager: Ora Owensby  
 Size: 58.53 acres ± BCC District: 5

**Public comment cards received – Ken Lassiter (COBWRA)**

**People who spoke on this application:**

Ken Lassiter – COBWRA, supports application.

**General Discussion:**

Kieran Kilday, Urban Design Kilday Studios, agreed to the conditions of approval as amended. Mr. Kilday also stated that they will withdraw variance requests 10 and 11.

**MOTION:** To adopt a resolution approving a Type II Zoning Variance to allow the reduction of the Urban/Suburban Tier requirements for interior landscaping, and to allow internally lit logo signs on the east and west sides of the main entry in the AGR Tier, as amended. (Variance 1,2) Carried 6-1.

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
n/a	Yes	No	Yes	Yes	Yes	Yes	Yes	Absent
			Seconded		Maker			

AND

To adopt a resolution approving a Type II Zoning Variance to eliminate the wall within the buffer on the north and east property lines; to increase the size of the temporary non-residential signs and to allow internally lit signage for the ambulance and emergency entry signage, and the main entry wall sign in the AGR Tier subject to the Conditions of Approval as indicated in Exhibit C, as amended. (Variance 3,4,5,6,7,8 and 9) Carried 7-0.

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

**6. DECISION: APPROVED AS ADVERTISED**  
(Item was reordered to the end of the agenda)

**ZV/DOA/R-2009-02692** Title: a Type II Zoning Variance application of GPH Holdings LC by Ruden McClosky, Agent. Request: allow a reduction in the buffer width and shrubs, elimination of the 2-3 foot berm for the right-of-way buffers, utility easement encroachment into the buffers, elimination of the foundation plantings along Building J, reduction in the drive aisle and terminal island widths, and to exceed the distance allowed between terminal. Title: a Development Order Amendment application of GPH Holdings LC by Ruden McClosky, Agent. Request: to reconfigure the site plan and add square footage. Title: a Requested Use application of GPH Holdings LC by Ruden McClosky, Agent. Request: to allow a Place of Worship and Indoor Entertainment. General Location: Northeast corner of Palmetto Park Road and Oriole Country Road (**Loggers Run Commercial**) (Control 1975-00068)

Pages 110-154  
Conditions of Approval Pages (134 - 142)  
Project Manager: Joyce Lawrence  
Size: 16.56 acres ±  
(affected area 12.56 acres ±)

BCC District: 5

**General Discussion:**

Stephanie Toothaker, Ruden McCloskey, agreed to the conditions of approval.

**MOTION:** To adopt a resolution approving a Type II Zoning Variance to allow a reduction in the number of shrubs, right of way buffer width, the drive aisle width, and terminal island width; elimination of the 2-3 foot berm for the right-of-way buffers and foundation planting for Building J; encroachment greater than 5 feet of a utility easement into the buffer; and, to exceed the distance allowed between terminal islands subject to Conditions of Approval as indicated in Exhibit C-1. Carried 7-0.

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

**MOTION:** To recommend approval of a Development Order Amendment to reconfigure the site plan and add square footage subject to Conditions of Approval as indicated in Exhibit C-2. Carried 7-0.

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

**MOTION:** To recommend approval of a Requested Use to allow a Place of Worship and an Indoor Entertainment use subject to Conditions of Approval as indicated in Exhibit C-3. Carried 7-0.

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

**END OF REGULAR AGENDA**

**DIRECTOR COMMENTS**

**A. COUNTY ATTORNEY**

**B. ZONING DIRECTOR**

- 11. Zoning Commission Duties/Membership memo from the Zoning Director  
Pages 292- 300
- 12. Code Amendment in 2009-02 ULDC Round - Infill Redevelopment  
Overlay (IRO) Code Revision Update

**C. EXECUTIVE DIRECTOR**

**COMMISSIONER COMMENTS**

**ADJOURNMENT**

Meeting adjourned at 10:48 a.m.