

**PRELIMINARY MINUTES  
ZONING COMMISSION  
ZONING MEETING**

THURSDAY, SEPTEMBER 3, 2009  
9:00 A.M 1<sup>ST</sup> FLOOR  
Vista Center,  
2300 N. Jog Road, West Palm Beach, FL 33411.

**CALL TO ORDER**

**A. Roll Call**

Commissioner William F. Anderson, Chairman  
Commissioner Sherry Hyman, Vice Chair  
Commissioner Allen Kaplan  
Commissioner Joanne Davis  
Commissioner Kelley Armitage, Alternate  
Commissioner Richard Bowman, Alternate

**Commissioner Sheri Scarborough arrived at 9:10 am.**

**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 9:30 A.M. on Thursday, September 3, 2009 to take final action on the applications listed below.

**D. Proof of Publication**

**E. Swearing In**

**F. Adoption of Minutes**

**MOTION TO REORDER ADOPTION OF MINUTES**

Carried 6-0

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

**G. Disclosure**

Armitage	Brumfield	Davis	Hyman	Anderson	Scarborough	Zucaro	Kaplan	Bowman
None	Absent	6, 10	6, 10	6, 10	6	Absent	6, 10	None

**POSTPONEMENTS/REMANDS/WITHDRAWAL**

**A. POSTPONEMENTS**

**1. DECISION: POSTPONED 30 DAYS TO OCTOBER 1, 2009**

**ZV/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 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/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 1 - 1

Project Manager: Carol Glasser

Size: 88.33 acres +

(affected area 32.82 acres +)

BCC District: 5

Staff Recommendation: Staff recommends to postpone 30 days to October 1, 2009.

**MOTION:** To postpone 30 days to October 1, 2009. Carried 6-0

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

**5. DECISION: POSTPONED 30 DAYS TO OCTOBER 1, 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, designate the subject property as the receiving area, and approve the reduced cost of \$1.00 per unit. General Location: Approximately 1000 feet north of Hypoluxo Road, on the east side of Military Trail. **(Southern Trails PUD)** (Control 2003-00501)

Pages 43 - 87

Conditions of Approval Pages (72 - 79)

Project Manager: Ora Owensby

Size: 21.80 acres +

BCC District: 3

Staff Recommendation: Staff recommends approval of the request subject to 42 conditions of approval as indicated in Exhibit C-1 and 9 conditions of approval in Exhibit C-2.

**MOTION:** To postpone 30 days to October 1, 2009. Carried 6-0

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

8. **DECISION: POSTPONED 30 DAYS TO OCTOBER 1, 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/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)

Pages 138 - 170  
 Conditions of Approval Pages (157 - 166)  
 Project Manager: Anthony Wint  
 Size: 5.10 acres + BCC District: 5

Staff Recommendation: Staff recommends approval of the request subject to 41 Conditions of Approval as indicated in Exhibit C.

**People who spoke on this application:**  
**Chris Barry, Jon Schmidt and Associates**

**General Discussion:**  
**Chris Barry requested a 30 day postponement to address Engineering issues.**

**MOTION:** To postpone 30 days to October 1, 2009. Carried 7-0

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

10. **DECISION: POSTPONED 30 DAYS TO OCTOBER 1, 2009 (ON ADD/DELETE)**

**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 202 - 223  
 Conditions of Approval Pages (213 - 213)  
 Project Manager: Douglas Robinson  
 Size: 1.14 acres + BCC District: 2

Staff Recommendation: Staff recommends approval of the Type II Variance to allow a reduction in required parking spaces, subject to 5 Conditions of Approval as indicated in Exhibit C.

**MOTION:** To postpone 30 days to October 1, 2009. Carried 6-0

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

**B. REMANDS**

**C. WITHDRAWALS**

**1. WITHDRAWN**

**PDD/DOA-2008-01536** Title: an Official Zoning Map Amendment to a Planned Development District application of Boynton Beach Associates XVII LLLP, G L Homes Of Palm Bch Assocs Ltd, Palm Beach County by Kilday & Associates Inc., Agent. Request: to allow a rezoning from the Agricultural Reserve (AGR) Zoning District to the Agricultural Reserve Residential Planned Unit Development (AGR-PUD) Zoning District

Title: a Development Order Amendment application of Boynton Beach Assocs XVII LLLP, G L Homes Of Palm Bch Assocs Ltd, Palm Beach County by Kilday & Associates Inc., Agent. Request: to reconfigure Master Plan, add land area and add units General Location: South of Boynton Beach Boulevard, West of the Florida Turnpike and East of Lyons Road (**Fogg South PUD**) (Control 2002-00069)

Pages 2 - 2

Project Manager: Joyce Lawrence

Size: 529.57 acres +

(affected area 22.22 acres +)

BCC District: 5

Staff Recommendation: To be withdrawn.

**MOTION:** None required. Withdrawn by applicant.

**END OF POSTPONEMENTS/REMANDSIWITHDRAWALS AGENDA**

**CONSENT AGENDA**

- A. REQUESTS TO PULL ITEMS FROM CONSENT
- B. STATUS REPORTS
- C. PREVIOUSLY POSTPONED ZONING APPLICATIONS

**4. DECISION: APPROVED AS ADVERTISED**

**ZV-2009-00557** Title: Type II Variance application of Angelo Bartolome by South East Architect Services Inc, Agent. Request: to allow a reduction in the minimum lot size. General Location: North of Military Trail, at the intersection of Military Trail and Old Military Trail. (**Sunshine Medical Office Building**) (Control 2004-00956)

Pages 26 - 42

Conditions of Approval Pages (35 - 35)

Project Manager: Joyce Lawrence

Size: 0.99 acres +

BCC District: 3

Staff Recommendation: Staff recommends approval of the request subject to 4 Conditions of Approval as indicated in Exhibit C.

**Public comment cards received – Stuart Caine**

**People who spoke on this application:**

**Stuart Caine, COBWRA, supports application**

**General Discussion:**

Murthy Nori, South East Architect Service, agreed to conditions of approval.

**MOTION:** To adopt a resolution approving a Type II Zoning Variance to allow a reduction of the lot size 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	Absent	Yes	Yes
			Moved				Seconded	

**D. ZONING APPLICATIONS - NEW**

**6. DECISION: APPROVED AS ADVERTISED**

**ZV-2009-02687** Title: a Type II Zoning Variance application of Lost Tree by Land Design South Inc., Agent. Request: to allow a reduction in the number of parking spaces, the right-of-way landscape buffer width along the south property line, the number of shrub layers in the right-of-way buffer along the south property line; and, to allow an easement overlap in the west landscape buffer greater than 5 feet. General Location: On the east side of State Road No. A1A, directly between Village Road and Beach Club Way. **(Lost Tree Village)** (Control 1973-00030)

Pages 88 - 122

Conditions of Approval Pages (100 - 101)

Project Manager: Donna Adelsperger

Size: 0.62 acres +

BCC District: 1

Staff Recommendation: Staff recommends approval of the requests, subject to 5 Conditions of Approval as indicated in Exhibit C.

**General Discussion:**

Jennifer Vail, Land Design South, agreed to conditions of approval.

**MOTION:** To adopt a resolution approving four Type II Zoning Variances to allow a reduction in the required number of parking spaces; to allow a reduction in the required right-of-way landscape buffer width on the south property line; to allow a reduction in the required number of shrub layers in the right-of-way buffer on the south property line and to allow an existing utility easement overlap in the west landscape buffer greater than 5 feet 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	Absent	Yes	Yes
			Moved				Seconded	

**7. DECISION: APPROVED AS ADVERTISED**

**Z-2008-01886** Title: an Official Zoning Map Amendment application of Charlie Lowe by Smiley & Associates Inc., Agent. Request: to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Light Industrial (IL) Zoning District. General Location: Approximately 1000 feet north of Southern Boulevard on the east side of Pike Road. **(340 Pike Road)** (Control 2008-00249)

Pages 123 - 137

Conditions of Approval Pages (133 - 134)

Project Manager: Andrea Harper

Size: 1.09 acres +

BCC District: 6

Staff Recommendation: Staff recommends approval of the request subject to 7 Conditions of Approval as indicated in Exhibit C.

**General Discussion:**

Mark Smiley, Smiley & Associates, agreed to conditions of approval.

**MOTION:** To recommend approval of an Official Zoning Map Amendment from the Agricultural Residential (AR) Zoning District to the Light Industrial (IL) Zoning District with a Conditional Overlay Zone (COZ) 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	Absent	Yes	Yes
			Moved				Seconded	

9. **DECISION: APPROVED AS ADVERTISED**

**DOA/TDR-2009-00218** Title: a Development Order Amendment application of Town Commons Acquisition LLC by CMS Engineering LLC, Agent. Request: to modify the Master Plan, change unit types, add units, reconfigure the site plan, and modify 3 Conditions of Approval (Engineering and Planned Unit Development) Title: a Transfer of Development Rights application of Town Commons Acquisition LLC by CMS Engineering LLC, Agent. Request: to allow the transfer of development rights for 28 units, designate this site as a receiving area, and to reduce the Transfer of Development Rights price to \$1.00 per unit. General Location: Northeast corner of Lyons Road and Hypoluxo Road (**Town Commons PUD**) (Control 2004-00247)

Pages 171 - 201

Conditions of Approval Pages (188 - 197)

Project Manager: Anthony Wint

Size: 20.84 acres +

BCC District: 3

Staff Recommendation: Staff recommends approval of the requests, subject to 44 Conditions of Approval as indicated in Exhibit C-1 and 6 TDR Conditions of Approval as indicated in Exhibit C-2.

**Public comment cards received – Arnold Cohen**

**People who spoke on this application:**

**Arnold Cohen, President Villaggio Home Owners Associates, supports application**

**General Discussion:**

Bradley Miller, Miller Land Planning, agreed to conditions of approval.

**MOTION:** To recommend approval of a Development Order Amendment to modify the Master Plan, change unit types, add units, reconfigure the site plan and modify 3 Conditions of Approval (Engineering and Planned Unit Development) 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	Absent	Yes	Yes
			Moved				Seconded	

**MOTION:** To recommend approval of the Transfer of Development Rights to allow the approval of a requested use to allow the transfer of development rights for 28 units, designate this site as a receiving area, and to reduce the Transfer of Development Rights price to \$1.00 per unit subject to the Conditions of Approval as indicated in Exhibit C-2. Carried 7-0

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

**END OF CONSENT AGENDA**

**REGULAR AGENDA**

**A. ITEMS PULLED FROM CONSENT**

**3. DECISION: APPROVED AS AMENDED (ON ADD/DELETE AND DISCUSSION)**

**DOA-2009-00567** Title: a Development Order Amendment application of Palm Beach Baptist Church Inc by Jon E Schmidt & Associates, Agent. Request: to reconfigure the site plan, add square footage, amend the number of students, and modify a condition of approval (Use Limitation). General Location: West side of Military Trail approximately 1,000 feet south of Lantana Road. **(Montessori Academy)** (Control 1973-00216)

Pages 3 - 25

Conditions of Approval Pages (16 - 21)

Project Manager: Anthony Wint

Size: 13.58 acres +

BCC District: 3

Staff Recommendation: Staff recommends approval of the request subject to 32 Conditions of Approval as indicated in Exhibit C.

**Public comment cards received – Vickie McGinnis**

**People who spoke on this application:**

**Anthony Wint, Site Planner II**

**Wendy Hernandez, Zoning Manager**

**Jon MacGillis, Zoning Director**

**Chris Barry, Jon Schmidt and Associates**

**Vickie McGinnis, resident**

**General Discussion:**

**Discussion focused on issues related to the number of churches on site: ULDC Code Amendments for Churches; hours of operation; Special Events, Limits on the number of special events, annual status reports, security, fencing, traffic, traffic calming and drainage. Additional conditions were read into record.**

**MOTION:** To recommend approval of a Development Order Amendment to reconfigure the site plan, add square footage, amend the number of students, and modify a Condition of Approval (Use Limitation) 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	Absent	Yes	Yes
			Seconded					Moved

**B. STATUS REPORTS**

**C. PREVIOUSLY POSTPONED ZONING APPLICATIONS**

**D. ZONING APPLICATIONS - NEW**

**END OF REGULAR AGENDA**

**DIRECTOR COMMENTS**

**A. COUNTY ATTORNEY**

**B. ZONING DIRECTOR**

**Motion to adopt the new format of for Minutes.**

Carried 7-0

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

**Motion to August Minutes with new format.**

Carried 7-0

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

**C. EXECUTIVE DIRECTOR**

**COMMISSIONER COMMENTS**

**ADJOURNMENT –**

**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)

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