

**PRELIMINARY MINUTES  
ZONING COMMISSION  
ZONING MEETING**

THURSDAY, MARCH 4, 2010  
9:00 A.M., 1<sup>st</sup> Floor  
Vista Center Hearing Room, VC-1W-47  
2300 N. Jog Road, West Palm Beach, FL 33411

**CALL TO ORDER**

**A. Roll Call 9:00 A.M.**

Commissioner Sherry Hyman, Chair  
Commissioner Sheri Scarborough, Vice Chair  
Commissioner William F. Anderson  
Commissioner Allen Kaplan **Absent**  
Commissioner Joanne Davis **Absent**  
Commissioner Alex Brumfield  
Commissioner Sam Caliendo  
Commissioner Mark Beatty  
Commissioner Robert Currie

**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, February 25, 2010 to take final action on the applications listed below.

**D. Proof of Publication – Motion to receive and file 7 - 0**

**E. Adoption of the Minutes** – Commissioner Hyman made a correction on item 3 to state that she moved to reorder the agenda, and also to correct the spelling on Dennis Koehler’s and Sean Wilson’s name on item 7. Commissioner Hyman had questions regarding whether we included an additional condition of approval to reassess the parking after one year for the Valencia Square (application number 2009-995). She also suggested that staff state the reasons the commissioners approves a project when staff is recommends denial. Carried. 7-0

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Seconded				Moved			

**F. Swearing In**

**G. Disclosures- Listed by Agenda Number**

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
None	6	Absent	6	6, 9	9	None	Absent	None

**POSTPONEMENTS/REMANDS/WITHDRAWALS AGENDA**

- A. POSTPONEMENTS**
- B. REMANDS**
- C. WITHDRAWALS**

**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**
- 1. DECISION: APPROVED**

**DOA/W-2009-04276** Title: a Development Order Amendment application of Boca Raton Associates VI LLLP, Palm Beach County, Pontano Family Farms LLC, South Florida Water Management District by Urban Design Kilday Studios, Agent. Request: to reconfigure the Master Plan, designate a model row, increase the number of dwelling units by 48 to 602, modify and delete Conditions of Approval (Planning, Planned Unit Development) and, restart the development clock. General Location: East side of Lyons Road between Atlantic Avenue and Clint Moore Road (**Dubois AGR PUD**) (Control 2004-00250)

Pages 1-44  
 Conditions of Approval Pages (24-34)  
 Project Manager: Carol Glasser  
 Size: 7222.64 acres ±  
 (affected area 280.91 acres ±)

BCC District: 5

**People who spoke on this application:**

Kieran Kilday, Agent – Agreed to the conditions of approval.

**MOTION:** To recommend approval of a Development Order Amendment to reconfigure the Master Plan, designate a model row, increase the number of dwelling units by 48 to 602, modify and delete Conditions of Approval (Planning, Planned Unit Development) and, restart the development clock subject to the Conditions of Approval as indicated in Exhibit C. Carried 7-0.

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Moved			Seconded				

**2. DECISION: APPROVED AS AMENDED**

**Z-2009-04545** Title: an Official Zoning Map Amendment application of Tidal Wave Development Corp by Urban Design Kilday Studios, Agent. Request: To allow a rezoning from the Multiple Use Planned Development (MUPD) Zoning District to the Light Industrial (IL) Zoning District with a Conditional Overlay Zone (COZ). General Location: Northwest corner of Tall Pines Road and Wallis Road (**Tidal Wave Central**) (Control 2007-00236)

Pages 45 - 66  
 Conditions of Approval Pages (58 - 61)  
 Project Manager: Andrea Harper  
 Size: 18.22 acres +

BCC District: 6

**People who spoke on this application:**

Joni Brinkman, Agent – Agreed to conditions of approval as amended and stated that they are working with Land Development on Engineering Condition # 3 and will have their issue resolved prior to BCC hearing.

**MOTION:** To recommended approval of an Official Zoning Map Amendment to allow a rezoning from the Multiple Use Planned Development (MUPD) 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.

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Moved			Seconded				

**3. DECISION: APPROVED AS AMENDED**

**Z-2009-04543** Title: an Official Zoning Map Amendment application of Tidal Wave Development Corp by Urban Design Kilday Studios, Agent. Request: To allow for a rezoning from the Multiple Use Planned Development (MUPD) Zoning District to the Light Industrial (IL) Zoning District with a Conditional Overlay Zone (COZ). General Location: North side of Southern Boulevard, approximately .25 miles west of Tall Pines Road (**Tidal Wave South**) (Control 2009-02434)

Pages 67 - 83  
 Conditions of Approval Pages (77 - 79)  
 Project Manager: Andrea Harper  
 Size: 4.81 acres +

BCC District: 6

**People who spoke on this application:**

Joni Brinkman, Agent – Agreed to conditions of approval as amended and stated that they are working with Land Development on Engineering Condition # 3 and will have their issue resolved prior to BCC hearing.

**MOTION:** To recommend approval of an Official Zoning Map Amendment to allow for a rezoning from the Multiple Use Planned Development (MUPD) 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.

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Moved			Seconded				

**4. DECISION: APPROVED**

**Z-2009-04544** Title: an Official Zoning Map Amendment application of Tidal Wave Management Corp Inc by Urban Design Kilday Studios, Agent. Request: To allow a rezoning from the Multiple Use Planned Development (MUPD) Zoning District to the Light Industrial (IL) Zoning District with a Conditional Overlay Zone (COZ). General Location: Southwest corner of Tall Pines Road and the LWDD L-4 Canal (**Tidal Wave North**) (Control 2009-02435)

Pages 84 - 99  
 Conditions of Approval Pages (94 - 95)  
 Project Manager: Andrea Harper  
 Size: 18.55 acres +

BCC District: 6

**People who spoke on this application:**

Joni Brinkman, Agent – Agreed to the conditions of approval.

**MOTION:** To recommend approval of an Official Zoning Map Amendment to allow a rezoning from the Multiple Use Planned Development (MUPD) 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

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Moved			Seconded				

**E. CORRECTIVE RESOLUTIONS**

**F. ABANDONMENTS**

**END OF CONSENT AGENDA**

**REGULAR AGENDA**

**A. ITEMS PULLED FROM CONSENT**

**5. DECISION: APPROVED AS AMENDED**

**ABN/Z/CA-2009-04537** Title: a Development Order Abandonment application of Holland Northlake by Urban Design Kilday Studios, Agent. Request: to allow a Legislative Abandonment of Resolution No. R-98-1796 for a private school. Title: an Official Zoning Map Amendment application of Holland Northlake by Urban Design Kilday Studios, Agent. Request: to allow a rezoning from the Residential Estates (RE) Zoning District to the Residential Transitional (RT) Zoning District. Title: a Class A Conditional Use application of Holland Northlake by Urban Design Kilday Studios, Agent. Request: to allow a Daycare, General. General Location: South side of Northlake Blvd., approximately 600 feet West of Military Trail. (**Holland Northlake Dayschool**) (Control 1998-00052)

Pages 100 - 120  
Conditions of Approval Pages (114 - 116)  
Project Manager: Ora Owensby  
Size: 2.13 acres +

BCC District: 1

**People who spoke on this application:**

Ora Owensby, Site Planner II – gave a brief presentation  
Joni Brinkman, Agent – gave a brief presentation

Joe Martin – There was a neighborhood meeting and those at the meeting agreed to the conditions that are now in the staff report, the changes brought up today were not discussed at the neighborhood meeting; however, hours of operation and landscaping have been discussed since that time. They would like to discuss either a wall or additional landscaping along the south property line. The neighbor to the south can see through the landscaping to Northlake Boulevard. They would like to continue discussion with the agent about a wall. No one is opposed to the daycare. They were not aware of the new condition that would allow adult daycare and want to discuss this with the owners.

Commissioner Hyman clarified to Mr. Martin that without authorization he can only speak for himself; all of his comments are considered to be his individual opinion. The cards from Ms. Donna Morris and Ms. Sue Anderson were read into the record, with objections to changing any of the conditions in the staff report, and requesting a wall on the south

**General Discussion:** This item was moved to the Regular Agenda from the Consent Agenda.

Commissioner Hyman wanted to know if someone was coming into the site from Northlake Blvd. if they would have to make a u-turn to come into the drive-way and the agent responded that they will be making a right turn.

Commissioner Currie questioned the change in hours of operation to verify that only indoor activity would occur in the evening. The agent agreed that no outdoor activity would occur in the evening.

Commissioner Beatty had concerns with the lighting and the safety of the pool. Commissioner Anderson recommended letting the petitioner and the neighbors discuss the landscaping and wall. Commissioner Currie stated he had no problem allowing an adult day care.

The applicant's engineer and the Traffic Division have developed a design to discourage traffic entering from the south by providing a flush 24-inch header curb with flexible poles to discourage left turns from North Virginia Avenue. The owner also would like to delete two conditions, Lighting No. 1 which limits the hours of outdoor lighting, and Use Limitations No. 1 which restricts hours of operation to 6a.m. – 7p.m. and not on Saturday. The code restricts hours of operation to 6a.m. – 11p.m. The 3 existing lights are on the north side of the school. The use is not within the neighborhood, but at the edge. The owner wants to offer Saturday hours and extended hours.

The agent addressed the wall issue requesting that this be discussed prior to BCC, and they will attempt to contact the owner to the south. The wall for the Levy project was a different situation with a loading area on the south side of the building. A wall on the Holland site would disturb existing landscape and is also cost-prohibitive. Staff stated that a landscape inspector would go out to the site to double check the southwest corner. A 6-foot high screen was required for the previous approval and is also required with the new use.

**MOTION:** To recommend approval of the request to allow a Legislative Abandonment of Resolution No. R-98-1796 for a private school. Carried 7-0

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
Seconded	Moved							

**MOTION:** To recommend approval of an Official Zoning Map Amendment to allow a rezoning from the Residential Estates (RE) Zoning District to the Residential Transitional (RT) Zoning District. Carried 7-0

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
Seconded	Moved							

**MOTION:** To recommend approval of a Class A Conditional Use to allow a Daycare, General, subject to Conditions of Approval as indicated in Exhibit C. Carried 7-0

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
Seconded	Moved							

**B. STATUS REPORTS**

**C. PREVIOUSLY POSTPONED ZONING APPLICATIONS**

**6. DECISION: APPROVED AS AMENDED**

**DOA/R-2009-00995** Title: a Development Order Amendment application of Woolbright Jog LLC by Land Design South Inc., Agent. Request: to modify the site plan. Title: a Requested Use application of Woolbright Jog LLC by Land Design South Inc., Agent. Request: to allow a Day Care, General. General Location: Northwest corner of Woolbright Road and Jog Road (**Valencia Square MUPD**) (Control 1998-00078)

Pages 121-154  
 Conditions of Approval Pages (136-149)  
 Project Manager: Joyce Lawrence  
 Size: 23.85 acres ±

BCC District: 5

**People who spoke on this application:**

Joyce Lawrence, Site Planner II - gave a brief update  
 Bob Bentz, Agent – gave a brief update

Leslie Brown – in opposition of application  
 Gail Paladino – in opposition of daycare, turned in petition  
 Malka Benoff – in opposition of application, issues with security  
 Craig Small – in opposition of application, concerns with traffic and oppose location  
 Bill Barr - in opposition of application, concerns with safety  
 Rhona Leff – in opposition of application (read statement on behalf of Valencia Point HOA)  
 Gerry Morrison, COBWRA – in support of application  
 Jerome Friedlander – in support of application

**General Discussion:**

There was a lengthy discussion on this application. The agent stated that the applicant met with Commissioner Aaronson and also on several occasions with COBWRA and the adjacent homeowners' association to discuss concerns on increased traffic, safety, access aisles, parking, and the location of the proposed daycare use. Mr. Ken Lassiter, President of COBWRA, stated that COBWRA thoroughly reviewed the application and is in favor of the request. He also stated that the applicant offered and agreed to install mirrors to increase visibility and additional stop signs and traffic devices to reduce speed. The mirrors will be installed prior to Final DRO approval. There were several members from the public that spoke in opposition with the concerns mentioned above.

The agent, Mr. Bob Bentz, requested to amend Use Limitations Condition No. 2 to change the hours of operation from 6:00 a.m. to 6:00 p.m., Monday through Friday to 7 a.m. to 10 p.m., Monday through Saturday, to accommodate the work schedule of working parents in and around the shopping center. To address some of the safety concerns there is Use Limitation Condition No. 4 that requires traffic calming devices, bollards or similar devices to be installed adjacent to the play area and interior access of the shopping center.

One member of the public stated that he heard that the proposal was a done deal and Commissioner Kaplan responded that the public is always given the opportunity to voice their opinion and it was never a done deal or will it be, as long as he is a member of the ZC. He further explained that the ZC, like any other political body had been accused of that before but will not vote unless members of the public are given the opportunity to be heard.

Commissioner Hyman indicated that she had concerns with the location of the front door from the drop off area, and inquired whether the applicant had considered the drop off to be in front of the building with the play area next to the building. It was also suggested that instead of a chain link fence the applicant should install a partial concrete wall to the drive aisle with an aluminum fence along the other sides to prevent children from possibly climbing over the fence around the play area. The agent explained that the original proposal had the drop off in front of the play area but was changed due to COBWRA's concern of kids running off into the street.

Commissioner Hyman stated that she does not oppose the daycare use but the layout of the plan was awkward and thus the struggle for the ZC recommendation. After a lengthy discussion among the Commissioners, it was suggested that the plan should be modified and for the agent to pursue other options to address the concerns that were raised.

The agent, Mr. Bob Bentz, expressed to the ZC that the applicant had several community meetings and have tried on numerous occasions to address the concerns raised by the adjacent neighbors. He has agreed to install traffic calming devices, a door facing the play area, bollards, mirrors, and stop sign, stop sign and to construct a wall between the drive aisle and the play area for added safety of the children. In spite of these considerations it appears the adjacent neighbors would like the proposed day care to be in a different location. A COBWRA representative spoke in favor of the project and several members from the public spoke in opposition on the same issues raised at the February 4, 2010 ZC Hearing.

Commissioner Beatty had concerns, should a restaurant serving alcohol occupied one of the spaces next to the day care. The applicant has agreed to look into this although there are no Code or Health Department requirements in this regard. Commissioner Brumfield stated that he understood the concerns raised by the neighbors with regard to safety, and the laws that apply to the citizens of Palm Beach County. However, this is a public forum to exercise and analyze the concerns raised, even though at times it is difficult to deal with. He stated that no one wants children to be negatively impacted at the proposed site and thus the suggestion for the different devices, mirrors, signs, bollards, traffic calming devices, wall, etc. With the public entity, COBWRA, and the Zoning Laws the concerns raised by the public are not

being ignored but are being analyzed and addressed.

As public servants, the ZC has an obligation to address the concerns raised, to listen to them respectfully, and to do their best for the citizens of Palm Beach County. The circumstances have been analyzed and irrespective of the ZC decision, the citizens will still have an opportunity to voice their opinion at the BCC. He also stated that the Health Department also has the opportunity to review the project as well. He then stated that everyone has legal rights, the citizens, the applicant, and that the Board shall take the time to make a decision on the concerns raised. Commissioner Scarborough stated that kids are required to be in car seats and these are the same kids that go to the grocery store with their parents. Commissioner Anderson stated that the in-line use would generate less traffic versus a stand alone day care. He also states that he would support the Figure 6, Alternative Design A, which showed the parking away from the building. Commissioner Hyman stated that she was not in agreement with the argument that was raised for the project to be in another location. She thought that the design shown on Figure 6, had too much space between the day care and the play area and had concerns if a child gets hurt on the playfield. She also stated it would be unnecessary to have the proposed new door so close to the existing one.

**MOTION:** To recommend approval of the Development Order Amendment to reconfigure the site plan subject to Conditions of Approval as indicated in Exhibit C-1. Carried 4-3

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
No	Yes	Absent	No	Yes	Yes	No	Absent	No
	Moved			Seconded				

*Added – A motion to recommend approval for the second layout, Figure 7. Carried 5-2*

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
No	Yes	Absent	Yes	Yes	Yes	Yes	Absent	No
	Seconded			Moved				

**MOTION:** To recommend approval of the Requested Use to allow a Day Care, General subject to Conditions of Approval as indicated in Exhibit C-2. Carried 5-2

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
No	Yes	Absent	Yes	Yes	Yes	Yes	Absent	No
	Moved			Seconded				

**D. ZONING APPLICATIONS - NEW**

**7. DECISION: APPROVED**

**ABN/DOA-2009-03922** Title: a Development Order Abandonment application of C Bruce Pearson by Cotleur & Hearing Inc., Agent. Request: to abandon Resolutions R-2006-0523 which granted the Transfer Development Rights (TDR) and R-2006-0742, the corrective resolution Title: a Development Order Amendment application of C Bruce Pearson by Cotleur & Hearing Inc., Agent. Request: to allow reconfiguration of the preliminary master plan, deletion of land area, reduction of units, and modify conditions of approval General Location: East side of Hagen Ranch Road approximately 1.5 miles south of Boynton Beach Boulevard (**Wyndsong Ranch PUD**) (Control 2005-00452)

Pages 155 - 178  
 Conditions of Approval Pages (169 - 174)  
 Project Manager: Joyce Lawrence  
 Size: 8.94 acres +

BCC District: 5



**People who spoke on this application:**

Joyce Lawrence, Site Planner II – gave brief presentation  
Brian Chegus, Agent – in agreement with conditions of approval

**MOTION:** To recommend approval of a Development Order Abandonment of Resolutions R-2006-0523 which granted the Transfer Development Rights (TDR) and R-2006-0742, the corrective resolution. Carried 7-0

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Moved			Seconded				

**MOTION:** To recommend approval of a Development Order Amendment to allow the reconfiguration of the preliminary master plan, deletion of land area, reduction of units, and modify conditions of approval subject to Conditions of Approval as indicated in Exhibit C. Carried 7-0

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Moved			Seconded				

**8. DECISION: APPROVED AS AMENDED**

**PDD/R-2009-03923** Title: an Official Zoning Map Amendment to a Planned Development District application of C Pearson by Cotleur & Hearing Inc., Agent. Request: to allow a rezoning from the Planned Unit Development (PUD) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District Title: a Requested Use application of C Pearson by Cotleur & Hearing Inc., Agent. Request: to allow a Congregate Living Facility, Type III General Location: On the east side of Hagen Ranch Road approximately 1.5 miles South of Boynton Beach Boulevard (**Gardens Park Assisted Living**) (Control 1997-00075)

Pages 179 - 203  
Conditions of Approval Pages (196 - 199)  
Project Manager: Joyce Lawrence  
Size: 7.50 acres +

BCC District: 5

**People who spoke on this application:**

Joyce Lawrence, Site Planner II – gave brief presentation  
Sussan Gash, Planner II – gave brief presentation  
Brian Chegus, Agent – gave brief presentation, in agreement with conditions of approval as amended.

Gerry Morrison, COBWRA – in support of application  
Janet Padden – issues with access point

**General Discussion:**

Planning staff read a Planning Condition associated with the Small Scale Amendment limiting the facility to 135 beds. Two members from the public spoke, a COBWRA representative, in favor of the project and the other person, Ms. Janet Padden, stated that she was not opposing to the project, however, she was negotiating with the applicant to have the northern access point to the site move 100 feet south from the adjacent development, Valencia Isles PUD. The applicant was in agreement with the request and indicated that at the time of final DRO approval, the site plan will be revised to comply with the request. The applicant was not in agreement with Landscape Condition No. 5, to allow a wall with a continuous 3-foot high berm along the west property line, adjacent to Hagen Ranch Road.

**MOTION:** To recommend approval of an Official Zoning Map Amendment to allow a rezoning from the Planned Unit Development (PUD) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District subject to the Conditions of Approval as indicated in Exhibit C-1. Carried 7-0

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Moved			Seconded				

**MOTION:** To recommend approval of the Requested Use to allow a Congregate Living Facility, Type III subject to the Conditions of Approval as indicated in Exhibit C-2. Carried 7-0

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Moved			Seconded				

**9. DECISION: APPROVED AS AMENDED**

**ZV/DOA-2009-02681** Title: a Type II Zoning Variance application of Christopher Doyle by Gary M. Brandenburg and Associates, Agent. Request: to allow extended hours of operation for a commercial use adjacent to a residential zoning district; to allow easement overlap into the right-of-way buffer; to allow reduction of a right-of-way buffer; and to allow a reduction of a Type III Incompatibility buffer. Title: a Development Order Amendment application of Christopher Doyle by Gary M. Brandenburg and Associates, Agent. Request: to reconfigure site plan General Location: Southwest corner of PGA Blvd and Ellison Wilson Road (**Hatties Landing**) (Control 1984-00159)

Pages 204 - 256  
 Conditions of Approval Pages (229 - 232)  
 Project Manager: Carrie Rechenmacher  
 Size: 3.73 acres +

BCC District: 1

**People who spoke on this application:**

Carrie Rechenmacher, Senior Site Planner – gave brief presentation  
 Gary Brandenburg, Agent – agreed to conditions of approval as amended

David Hill – opposes condition of late hours of operation due to noise.  
 Denise Perez – sent email which was read into record

**General Discussion:**

David Hill, member of the public, who lives reside to the west of the subject site in the Pirates Cove residential community, was concerned about excessive noise. He indicated that even though the drum circle was going away there was still too much noise emanating from this establishment and that the water from the intracoastal carries the sound. The Commissioners pointed out that the Waterway Café which is closer to Pirates Cove, also has an outdoor bar and live entertainment. The agent noted that the restaurants on the other 3 corners of this intersection could serve liquor until 3:00 AM. Staff confirmed these hours since she had also contacted Palm Beach Gardens concerning the hours of operation restrictions. The municipality also confirmed that a restaurant could remain open 24 hours but had regulations to address liquor sales.

The property owner requested to have extended hours especially for the open-air restaurant seating area until 3 AM on Thursday through Saturday and holidays. Staff

pointed out that a condition is recommended that the full service restaurant also remains open also during these extended hours. The open seating area is to serve as a restaurant and is not to be considered as a lounge since the lounge would be a requested use and not permitted based on the future land use condition applied to this site in 2002.

In addition the agent agreed to a new DOA Use Limitation Condition 2 prohibiting the drum circle at this location. The agent also agreed to a Variance Use Limitation Condition 3 allowing no outdoor entertainment, live bands or amplified music south of the existing restaurant after 11:00 PM. These 2 conditions were discussed by the Zoning Commission and the condition was modified to clarify that the hours of operation apply to the new open seating area and not the existing restaurant.

**MOTION:** To adopt a resolution approving a Type II Zoning Variance to allow extended hours of operation for a commercial use adjacent to a residential zoning district; to allow easement overlap into the right-of-way buffer; to allow reduction in width of a right-of-way buffer; and to allow a reduction of a Type III Incompatibility buffer subject to the Conditions of Approval as indicated in Exhibit C-1. Carried 7-0

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Moved			Seconded				

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

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Moved					Seconded		

**10. DECISION: APPROVED**

**DOA-2009-04541** Title: a Development Order Amendment application of CRVI Bayhill LLC by Perry & Taylor PA, Agent. Request: to delete Conditions of Approval (Engineering and Planning). General Location: South side of Northlake Boulevard approximately 5 miles west of the Beeline Hwy. (**Bayhill Estates**) (Control 1983-00018)

Pages 257 - 289  
 Conditions of Approval Pages (271 - 278)  
 Project Manager: Carol Glasser  
 Size: 372.97 acres +

BCC District: 6

**People who spoke on this application:**

Marty Perry, Agent -

Modesto Bravo – had concerns with Orange Road and liability of damage.

**General Discussion:**

Mr. Marty Perry for the applicant stated that Phase 2 of the development was acquired from Lennar/Centex. The applicant did not learn of the Orange Boulevard damage until advised of response to the courtesy notice sent to Commissioner Santamaria. The damage was caused under a prior ITID permit issued to Lennar/Centex for access to Orange Boulevard to haul fill.

Mr. Perry stated for the record that the applicant will modify the ITID temporary permit and current bond for permission to complete the repairs to ITID’s road to level and

grass the berm and repave to look the way it was before Lennar.

Mr. Bravo, an interested party, stated that he was concerned that the damage be corrected before the applicant is abolished of any responsibility for the drainage and the road.

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

Currie	Brumfield	Davis	Hyman	Anderson	Scarborough	Caliendo	Kaplan	Beatty
Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes
	Moved			Seconded				

**E. SUBDIVISION VARIANCE**

**END OF REGULAR AGENDA**

**DIRECTOR COMMENTS**

**A. COUNTY ATTORNEY**

**B. ZONING DIRECTOR**

- 11. Zoning Commission Annual Workshop –  
Pages 290-303

**C. EXECUTIVE DIRECTOR**

**COMMISSIONER COMMENTS**

**ADJOURNMENT**