

MINUTES  
PALM BEACH COUNTY  
BOARD OF ADJUSTMENT MEETING  
JULY 15, 1999  
9:00 A.M. - 10:04 A.M.

ADDRESS  
100 AUSTRALIAN AVENUE  
WEST PALM BEACH, FLORIDA 33406

APPEARANCES OF BOARD MEMBERS:

GLENN WICHINSKY  
JOSEPH JACOBS  
RAYMOND PUZZITIELLO  
NANCY CARDONE  
STANLEY MISROCH  
CHAIRMAN ROBERT BASEHART

APPEARANCES OF STAFF:

DAVID CUFFE  
LAURA BEEBE, COUNTY ATTORNEY  
JOHN MacGILLIS  
JOYCE CAI

CHAIRMAN BASEHART: I'd like to welcome everybody here to the July 15, 1999, meeting of the Palm Beach County Board of Adjustment.

Let's start with a roll call.

MS. MOODY: Mr. Joseph Jacobs?

MR. JACOBS: Here.

MS. MOODY: Ms. Nancy Cardone?

MS. CARDONE: Here.

MS. MOODY: Mr. Raymond Puzzitiello?

MR. PUZZITIELLO: Here.

MS. MOODY: Mr. Glenn Wichinsky?

MR. WICHINSKY: Here.

MS. MOODY: Mr. Stanley Misroch?

(No response.)

MS. MOODY: Mr. Steven Rubin?

(No response.)

MS. MOODY: Ms. Chelle Konyk.

(No response.)

MS. MOODY: Mr. Bob Basehart?

CHAIRMAN BASEHART: Here.

We have a quorum. We have five folks.

The first thing on the agenda is the proof of publication. I have a copy of the proof which was published in the Palm Beach Post on June 27th.

Do we have a motion to accept the proof into the record?

MR. JACOBS: So moved.

CHAIRMAN BASEHART: Okay. We have a motion by Mr. Cohen (sic).

MR. WICHINSKY: Second.

CHAIRMAN BASEHART: Second by Mr. Wichinsky.

All those in favor?

(Panel indicates aye.)

CHAIRMAN BASEHART: Opposed?

(No response.)

CHAIRMAN BASEHART: Next item is remarks of the chairman.

The only thing I'd like to do is, for those of you that are not familiar with the way the proceedings of this board work, the agenda -- other than postponements and withdrawals -- is broken into two parts. One is the consent agenda. The other is the regular agenda.

The consent items are items where the staff has recommended approval and where there is any proposed conditions of approval, the applicant has agreed with them and where there has been no indication of opposition by members of the public. Those items are on the consent agenda.

The board members have all read the staff reports.

If any board member disagrees with the staff report or staff recommendation, that member can have the item pulled from the agenda. Likewise, if there are any members of the public here that have come in opposition to an item on the consent agenda, when we address each item, if that is made known, the item will be pulled from consent and will be subject to a full public hearing.

Those items that remain on the consent agenda will be voted on as a group and approved. Those that are pulled will be considered individually and voted on individually. And somehow I have a feeling that this is going to change; but, at this point, all the items on the agenda are being requested for postponement or are on the consent agenda.

So, anyway, we'll get to that right after we talk about the minutes; and we have the remarks of the zoning director.

So let's move on to the next item which would be the approval of the minutes. We have the minutes of our June 17th meeting. Everybody received them either in hard copy or on disk.

If everybody's read them, is there a motion for approval of the June minutes?

MR. WICHINSKY: So moved.

CHAIRMAN BASEHART: Motion by Mr. Wichinsky.

MR. PUZZITIELLO: Second.

CHAIRMAN BASEHART: Second by Mr. Puzzitiello.

Any discussion?

(No response.)

CHAIRMAN BASEHART: All those in favor indicate by saying aye.

(Panel indicates aye.)

CHAIRMAN BASEHART: Opposed, no?

(No response.)

CHAIRMAN BASEHART: The minutes of the June meeting are adopted.

Next item, Jon.

MR. MacGILLIS: Just to remind the board that we only have five members here today. We need four votes for an affirmative motion for approval on all these items.

CHAIRMAN BASEHART: There's supposed to be a code amendment in process. That's not finished?

MS. BEEBE: Sometime this month.

CHAIRMAN BASEHART: So, for the applicants, what that means, in case you're not familiar with this, the code requires that a majority of the full board have to vote in order to support -- or to approve a variance. That means, if there are only four members here, you need a unanimous approval. If there are five, like today, you can suffer through one negative vote; but any more than that, then the item would not be approved.

So I'd just like to make sure everybody's aware of that.

Any other...

MR. MacGILLIS: No.

CHAIRMAN BASEHART: Then we'll get to the regular -- or to the agenda.

The first part of the agenda is postponement items, request for thirty-day postponement to the June (sic) meeting -- the first one is BAA 99-00019. It's an appeal of an interpretation by the zoning director.

Jon?

MR. MacGILLIS: That has been postponed for several months now. There's discussion going on with the Board of County Commissioners on this site. It's to deal with a billboard and conditions of approval. We were hoping it was going to be resolved; but the applicant, Greg Kino, who's an attorney, requested that it stay on, hopefully, in the next month. They're doing to have everything resolved on this, and an appeal won't be necessary.

We'll have to make a motion on this because it's not the first request.

CHAIRMAN BASEHART: Anybody --

MR. PUZZITIELLO: Motion to approve.

CHAIRMAN BASEHART: Motion by Mr. Puzzitiello.

MR. WICHINSKY: Second.

CHAIRMAN BASEHART: Second by Mr. Wichinsky. And that would be to postpone to the August meeting?

MR. MacGILLIS: August 19th.

CHAIRMAN BASEHART: August 19th meeting.

All those in favor?

(Panel indicates aye.)

CHAIRMAN BASEHART: Opposed?

(No response.)

CHAIRMAN BASEHART: Okay. That postponement's done.

Let the record show that Mr. Misroch has now joined us, so we now have six people.

Next item on the board is -- or on the agenda is B of A 99-00059, Herford Associates, Limited Partnership.

That's another thirty-day request.

MR. MacGILLIS: Yes. We don't need a motion on this. We got a letter five days prior to the hearing.

The applicant, Sara Lockhart, has requested thirty days to work out some issues with one of the tenants on this site.

CHAIRMAN BASEHART: This is the first time?

MR. MacGILLIS: Yes.

CHAIRMAN BASEHART: So it's by right? Okay. Then this item B of A 99-59 is postponed also to the August 19th meeting.

That gets us to the consent agenda.

What we'll do is we'll go through them one at a time. As we indicated earlier, if either a member of the board or a member of the public or the applicant wishes to pull each item off consent, then that's what we'll do.

The first item is B of A 99-00051, Marjorie A. Meloche and Paul Meloche.

Is the applicant here?

MS. FLARITY: Yes.

CHAIRMAN BASEHART: If you could come up to the microphone.

Staff is recommending approval of this item. And they've recommended four conditions of approval. Are you familiar with those conditions?

MS. FLARITY: Yes. I'm the agent.

CHAIRMAN BASEHART: Okay. Give us your name for the record.

MS. FLARITY: Megan Flarity, Ahrens Companies.

CHAIRMAN BASEHART: Okay. Do you agree with the conditions?

MS. FLARITY: Yes.

CHAIRMAN BASEHART: Is there any member of the public here to speak in opposition to this matter?

(No response.)

CHAIRMAN BASEHART: Seeing none, do we have any letters?

MR. MacGILLIS: No letters.

CHAIRMAN BASEHART: Anybody on the board feel this item needs to be pulled?

(No response.)

CHAIRMAN BASEHART: Okay. It will stay on consent.

#### STAFF RECOMMENDATIONS

APPROVAL, based upon the following application of the standards enumerated in Article 5, Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a varaince.

## ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

YES. Special circumstances and conditions do exist that are peculiar to the subject lot and not applicable to the other lots in the same district.

The subject property is a narrow (168' wide) but deep (637' deep) nonconforming interior lot in the AR zoning district. The standard interior setback is required 50 feet. By meeting the required side interior setback, the subject lot is restricted to have only 68 feet as buildable width. However, with the parking and paved road area on the east side of the lot, the building was constructed to the west.

In addition, as previously mentioned, in 1986, the existing building was granted in a variance to have 25.2 foot west interior setback. However, the approved setback in the site plan was greater than the actually shown in the survey, therefore, made it invalid for the structure that was later constructed according to the approved site plan. Said dimension discrepancy was not spotted prior to issuance of final CO because as-built survey was not required at that time.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE THE RESULT OF ACTIONS OF THE APPLICANT:

NO. Said special circumstances and conditions were not the result of actions of the applicant.

The existing building was constructed according to the previously-approved site plan by the Board of Adjustment.

All the necessary permits were obtained by the property owners including building permit and final CO. However, as previously indicated, due to the inaccurate measurement of the west side interior setback, a setback encroachment was resulted as compared with the recent survey.

The proposed roof canopy will be constructed over the existing concrete pad with the same west interior setback. Therefore, no increase of setback encroachment along the west property line as compared with what was approved by the Board of Adjustment in 1986.

3. GRANTING OF THE VARIANCE SHALL CONFER UPON THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

NO. Granting of this variance shall not confer upon the applicant special privilege(s) denied by the comprehensive plan and this code to other parcels of land in the same district.

The sale and service of lawn mowers was previously

approved by the Board of County Commissioners as a special exception in the Agricultural Residential Zoning District in 1982 (Pet. 82-53 (A)). The outdoor storage or placement of equipment was also permitted within the designated area as shown in the previously approved site plan in 1991 (Pet. 82-53(B)). Granting this variance will improve the property conditions for better serving the customers and continuing the growth of the business while having no adverse impact on the neighboring properties.

4. A LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

YES. A literal interpretation and enforcement of the terms and provisions of the Code would deprive the applicants of rights commonly enjoyed by other parcels of land in the same district.

The setbacks in the AR zoning district are established for 10-acre parcels and are required to be 50 feet from the interior side property lines. However, the subject lot is narrow and long and is nonconforming in terms of the lot width (168 feet) and area (2.49 acres). By meeting the required side interior setbacks, the subject lot is left only 68 feet as developable width, which placed physical restriction on the subject property to meet with the literal interpretation of the code. However, the requested variance meet with the general intent of the setback requirement which is to ensure minimal separation between adjacent usage and structures, protect the adjacent property values as well as protect the adjacent property from adverse visual and aural impact associated with the setback variance.

As previously mentioned, the sale and service of lawn mowers was previously permitted by the Board of County Commissioners. A literal interpretation of the code would deprive the applicant of rights to improve the property conditions for better serving the customers and continuing the growth of the business.

YES. Allowing for a 23.8-foot interior side setback from the west property line for the existing and the proposed structures will not encroach into the previously-approved setback line. In addition, the requested setback variance will not affect the parking, drainage and traffic. The impervious and the gross floor areas will also remain the same since the proposed roof canopy will be constructed over the existing concrete pad. therefore, the approval of the variance is the minimum variance that will allow a reasonable use of the parcel of land, building or structure.

6. GRANT OF THE VARIANCE WILL BE CONSISTEN WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

YES. Granting of the variance will be consistent with the purposes, goals, objectives and policies of the

Comprehensive Plan and the ULDC. The intent of the side interior setback is to buffer the adjacent properties from impacts of the uses on the subject property, such as noise and shadows as well as to protect the adjacent property owners and maintain the adjacent property values.

The proposed structure will be lined up with the existing building without increasing the west side interior setback encroachment. Furthermore, the requested setback encroachment will be mitigated by an existing 6' chain line fence, 18" hedge wall and native mature vegetation. The affected property to the west is also owned by the subject property owners. Therefore, granting this variance will not affect the neighbor's property and the property values. In addition, the general agricultural residential characters will still be maintained.

7. THE GRANT OF THE VARIANCE WILL BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

NO. Due to the fact that the subject property owners also own the properties to the north and the west, the requested variance will not affect adversely on the neighbor's properties. In addition, the existing 6' chain link fence, 18" hedge wall and native mature vegetation along the west property line will mitigate impacts from the requested variance. The affected area, which is also owned by the subject property owners, currently supports a nursery and, as stated by the applicant, no adverse impacts will be imposed on this adjacent property. Therefore, the grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

MR. MacGILLIS: Swear in anyone wanting to speak now?

CHAIRMAN BASEHART: Yeah. Anybody that would like to speak on any of these matters today, if you could please rise and raise your right hand to be sworn in.

(Thereupon, the audience was sworn in by the court reporter.)

CHAIRMAN BASEHART: When each speaker comes to the microphone, if they'll indicate whether or not they have been sworn in and then, of course, give us your name and address for the record.

First item --

MR. MacGILLIS: Maybe just before we go through and introduce, why we have all these applications for the same project. Items four through ten are all within the same development. They're all for a similar variance from a code requirement on lot coverage. The applicants are different, and the lots are not contiguous so the Unified Land Development Code requires, if the lots are not contiguous, then we have to have separate applications.

That's why you've got multiple applications in the same

development for the same request.

CHAIRMAN BASEHART: And, from reading the staff report, it appears that many of them are in different conditions. Some are already built. Some are under construction. Some are sold units, but not built yet?

MR. MacGILLIS: Correct. And maybe the applicant can explain what happened here. It's a situation where certain building permits were issued under another developer. When the new developer came in, it was caught that the lot coverage was already exceeded on some of the ones that were already approved. And his permits were put on hold.

CHAIRMAN BASEHART: Before we go through the consent, why don't we get that explanation; and that may have some impact on the position of the people that have come here.

MR. LELONEK: Certainly. I believe that, before we get off the consent, it would be wise to -- there are some residents that have some concerns about the variance requests that we have put forward today. Their concerns not only are less likely for the variances, but more likely for other issues that are going on in the communities.

However, there seems to be three of the seven lots that we're requesting today that I think that we have a unanimous vote of support because those are the three lots that are already constructed. Two of the lots have people living in them. The third lot is ready for a CO for a closing next week. So those three lots are already up and constructed.

It was an issue where the county reviewed the permits, issued the permits and didn't catch this until half of those permits were already built and constructed.

And this has been going on for -- as I said, some of them are already built, people living in them. So, obviously six months to a year, if not more. So this is something that many people looked over, and it's an honest mistake for some of these lots.

We have four additional lots that have not been started with. And that seems to be the major issue with many of the residents. It's my recommendation, before we go into a full presentation on this, is those three lots that don't seem to have the objection stay on the consent; and then we pull the remaining four.

CHAIRMAN BASEHART: For the record, which items are they?

MR. LELONEK: They're item number four, eight and nine. That's B of A 99-00052, 56 and 57.

CHAIRMAN BASEHART: For the record, is there anyone here that would object to the variances for the homes on -- under petition 52, 56 and 57?

(Audience member indicates.)

CHAIRMAN BASEHART: You want to object to those?

MR. SCHWARTZ: Yes. The 99-00052, which is lot number two.

CHAIRMAN BASEHART: Okay. You want to object to that?

MR. SCHWARTZ: Yep.

CHAIRMAN BASEHART: What about 56? And what about 57?

(No response.)

CHAIRMAN BASEHART: Okay. Does any member of the board have any objection to leaving number eight and nine,



99-00056 and 99-00057 on consent?

(No response.)

CHAIRMAN BASEHART: Okay. We'll leave those two on consent.

#### STAFF RECOMMENDATIONS

APPROVAL, based upon the following application of the standards enumerated in Article 5, Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a varaince.

#### ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

YES. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure. The subject lot 31 is within Parcel C of Phase I of Kent Property PUD, within the Regency Lake Estates subdivision, in the PUD Zoning District. (Pet. 94-04). It is among the 137 lots approved for Phase I of the development, of which 132 lots have been complete with final CO. "Tara Model" unit, which has been approved on the other similar lots in the same parcel, is also constructed on the subject lot with a building permit (B98023919) and completed with a final CO on January 22, 1999.

The approved site plans allow a maximum 40% lot coverage for Phase I and 44% for Phase II. However, as stated by the applicant, both the developer and the plan reviewers assumed that the project had an approval to increase the lot coverage to 44% with 10% administrative deviation same as the Phase II of the development. The developer is also unable to reapply for the limited administrative deviation due to the fact that Phase I has been substantially developed. Therefore, this special situation must be rectified on an individual basis by way of a variance via Board of Adjustment's approval.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE THE RESULT OF ACTIONS OF THE APPLICANT:

NO. special circumstances and conditions are not the result of actions of the applicant. The applicant has completely constructed a 4,072 square foot "Tara Model" unit with a building permit and a final CO for the subject lot (lot 31). This same model unit has been approved for the other similar lots in the same parcel. Recently the additional lot coverage of 1.89% was discovered along with the other six lots in the same development. Therefore, the applicant is seeking a variance to allow the lot coverage to exceed the maximum of 40% by 1.89% for the existing single-family residence. The event leading to this variance is not the actions of the applicant. Rather, the applicant has proceeded in good faith to apply this application in order to satisfy the code.

3. GRANTING OF THE VARIANCE SHALL CONFER UPON THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR

## STRUCTURES, IN THE SAME DISTRICT:

NO. Granting this variance will not confer upon the applicant any special privileges denied to other parcels in the same district. The intent of the lot coverage regulation is to ensure a balance between indoor and outdoor area on the lot. Furthermore, open space requirement restrict lot coverage to ensure proper land is reserved for passive outdoor living, landscaping and parking areas. In this case, approval of the variance request will not impact any adjacent property owner's due to the fact that the subject lot abuts to an existing lake along the rear property line and the required setbacks will be met. The existing single-family residence is still in keeping with surrounding neighborhood while enhancing the property owners' use of the lot, which is commonly enjoyed by the other residents in the same area.

4. A LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARSHIP:

YES. A literal of the terms and provisions of the code will deprive the applicant of rights commonly enjoyed by other parcels of land in the same area. As previously mentioned, within Phase I, 14 lots were and will be constructed with the 4,072 square foot "Tara Model" unit.

Nine of them have been completed with final CO. The subject residence is among these 9 lots where the owners have already moved in. Except the 1.89% increase of the lot coverage, all other property development regulations are adhered to, including setback requirements.

therefore, granting this variance will not detract from the residential ambiance since the increase in lot coverage are not visually or physically noticeable by the residents in the development. Also the existing lake to the north along the subject rear property line mitigates the increase in lot coverage.

5. THE APPROVAL OF THE VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

YES. The approval of this variance is the minimum variance that would allow a reasonable use of the subject lot. As previously mentioned, the lot coverage increase is minimal and a balance between the indoor-outdoor quality of life is the same. In addition, the subject property abuts to an existing lake along the rear property line. Therefore, the 1.89% lot coverage increase for the subject single-family residence are not visually detected and does not impact the adjacent neighbors because the existing structure still meets the required building setbacks.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

YES. Granting this variance will be consistent with the

intent of the Code and Comprehensive Plan. The purpose and intent of the Code is to preserve the quality of life and aesthetics of the residential development. Furthermore, the objective of lot coverage regulations is to provide a balance between the indoor-outdoor quality of life. The lot coverage increase are not visually detected. The goals and objectives of the Code will be met since there is an existing lake abutting the rear of the subject property to the north and as previously indicated, the single-family residence meets all the other property development regulations.

7. THE GRANT OF THE VARIANCE WILL BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

NO. The approval of this variance will not be injurious or detrimental to the surrounding area. The granting of this variance will not have a negative impact on the adjacent properties because the building setback requirements are met and there is an existing lake abutting to the north of the subject lot. Therefore, the minimal 1.89% increase in lot coverage are not visually detected. Furthermore, it enhances the aesthetics of the subject property and maintain property values in the surrounding neighborhood.

#### ENGINEERING COMMENTS

None. (Eng)

#### ZONING COMMENTS

1. By August 15, 1999, the BA Zoning staff shall ensure the certified site plan has a notation on lot 31 in Phase I indicating the approved building coverage. (DATE: MONITORING-ZONING-BA)
2. The 4,072 square foot "Tara Model", as shown on the exhibit #9, in the BA file (BA99-056) shall not be modified for this lot. (ONGOING)

#### STAFF RECOMMENDATIONS

APPROVAL, based upon the following application of the standards enumerated in Article 5, Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a variance.

#### ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

YES. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure. The subject lot 33 is within Parcel C of Phase I of Kent Property PUD, within the Regency Lake Estates subdivision, in the PUD Zoning District. (Pet. 94-04). It is among the 137 lots approved for Phase I of the development, of

which 132 lots have been complete with final CO. "Tara Model" unit, which has been approved on the other similar lots in the same parcel, is also constructed on the subject lot with a building permit (B98032255) and completed with a final CO on May 18, 1999.

The approved site plans allow a maximum 40% lot coverage for Phase I and 44% for Phase II. However, as stated by the applicant, both the developer and the plan reviewers assumed that the project had an approval to increase the lot coverage to 44% with 10% administrative deviation same as the Phase II of the development. The developer is also unable to reapply for the limited administrative deviation due to the fact that Phase I has been substantially

developed. Therefore, this special situation must be rectified on an individual basis by way of a variance via Board of Adjustment's approval.

## 2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE THE RESULT OF

### ACTIONS OF THE APPLICANT:

NO. special circumstances and conditions are not the result of actions of the applicant. The applicant has completely constructed a 4,072 square foot "Tara Model" unit with a building permit and a final CO for the subject lot (lot 33). This same model unit has been approved for the other similar lots in the same parcel. Recently the additional lot coverage of 1.89% was discovered along with the other six lots in the same development. Therefore, the applicant is seeking a variance to allow the lot coverage to exceed the maximum of 40% by 1.89% for the existing single-family residence. The event leading to this variance is not the actions of the applicant. Rather, the applicant has proceeded in good faith to apply this application in order to satisfy the code.

## 3. GRANTING OF THE VARIANCE SHALL CONFER UPON THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

NO. Granting this variance will not confer upon the applicant any special privileges denied to other parcels in the same district. The intent of the lot coverage regulation is to ensure a balance between indoor and outdoor area on the lot. Furthermore, open space requirement restrict lot coverage to ensure proper land is reserved for passive outdoor living, landscaping and parking areas. In this case, approval of the variance request will not impact any adjacent property owner's due to the fact that the subject lot abuts to an existing lake along the rear property line and the required setbacks will be met. The existing single-family residence is still in keeping with surrounding neighborhood while enhancing the property owners' use of the lot, which is commonly enjoyed by the other residents in the same area.

## 4. A LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

YES. A literal interpretation of the terms and provisions of the code will deprive the applicant of rights commonly enjoyed by other parcels of land in the same area. As previously mentioned, within Phase I, 14 lots were and will be constructed with the 4,072 square foot "Tara Model" unit. Nine of them have been completed with final CO, including the subject lot 33. Except the 1.89% increase of the lot coverage, all other property development regulations are adhered to, including setback requirements. therefore, granting this variance will not detract from the residential ambiance since the increase in lot coverage are not visually or physically noticeable by the residents in the development. Also the existing lake to the north along the subject rear property line mitigates the increase in lot coverage.

5. THE APPROVAL OF THE VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

YES. The approval of this variance is the minimum variance that would allow a reasonable use of the subject lot. As previously mentioned, the lot coverage increase is minimal and a balance between the indoor-outdoor quality of life is the same. In addition, the subject property abuts to an existing lake along the rear property line. Therefore, the 1.89% lot coverage increase for the subject single-family residence are not visually detected and does not impact the adjacent neighbors because the existing structure still meets the required building setbacks.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

YES. Granting this variance will be consistent with the intent of the Code and Comprehensive Plan. The purpose and intent of the Code is to preserve the quality of life and aesthetics of the residential development. Furthermore, the objective of lot coverage regulations is to provide a balance between the indoor-outdoor quality of life. The lot coverage increase are not visually detected. The goals and objectives of the Code will be met since there is an existing lake abutting the rear of the subject property to the north and as previously indicated, the single-family residence meets all the other property development regulations.

7. THE GRANT OF THE VARIANCE WILL BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

NO. The approval of this variance will not be injurious or detrimental to the surrounding area. The granting of this variance will not have a negative impact on the adjacent properties because the building setback requirements are met and there is an existing lake abutting to the north of the subject lot. Therefore, the minimal 1.89% increase in lot coverage are not visually

## ENGINEERING COMMENTS

None. (Eng)

## ZONING CONDITIONS

1. By August 15, 1999, the BA zoning staff shall ensure the certified site plan has a notation on lot 33 in Phase I indicating the approved building coverage. (DATE: MONITORING-ZONING-BA)
2. The 4,072 square foot "Tara Model", as shown on the Exhibit #9, in the BA file (BA99-057) shall not be modified for this lot. (ONGOING)

Since there are objectors here for the other five -- the other four -- no, five of them, I guess we'll just pull those items. Okay?

That means that we're ready to start the agenda.

Since all of these variances are in the same development and they're all for the same item, what I'd like to do, if no one has any objection, is have the applicant and the public address all of them as a group.

Then we'll -- of course, we have to vote on each one individually. But, rather than to repeat a presentation five times, I think we should --

MS. BEEBE: Indicate what the testimony for each of those case numbers.

CHAIRMAN BASEHART: Right. Okay.

MS. BEEBE: We also need to approve the consent agenda.

CHAIRMAN BASEHART: Do we have a motion to approve the consent agenda, which is basically agenda items number eight and number nine?

MR. JACOBS: So moved.

MR. WICHINSKY: Number three also on the first page.

CHAIRMAN BASEHART: And number three; that's right.

We've already done that one.

Do we have a motion?

MR. JACOBS: So moved.

CHAIRMAN BASEHART: Mr. Jacobs makes a motion for the approval of the consent agenda as amended.

PUZZITIELLO: Second.

CHAIRMAN BASEHART: Second by Mr. Puzzitiello.

All those in favor?

(Panel indicates aye.)

CHAIRMAN BASEHART: Opposed?

(No response.)

CHAIRMAN BASEHART: Okay. Items B of A 99-00051, 99-00056 and 99-00057 are approved by consent.

That leads us to the first regular item on the agenda, which is petition 99-00052, as we indicated.

Jon, if you could give us the staff report and recommendation for all of the items, and point out any differences as you do that. Then we'll move on to the presentation.

MR. MacGILLIS: Joyce Cai was the project manager for this. So she'll just give you a brief overview.

For the record, make sure which case you're talking about.

MS. CAI: The rest of five applications are all for lot coverage increase that varies from different amounts.

I'm going to tell you for each.

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

YES. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure.

The subject lot 2 is within Parcel C of Phase I of Kent Property PUD, within the Regency Lake Estates subdivision, in the PUD Zoning District. (Pet. 94-04). It is among the 137 lots approved for Phase I of the development, of which 132 lots have been complete with final CO. "Tara Model" unit, which has been approved on the other similar lots in the same parcel, is proposed to be developed in Phase I. "Tara Model" unit, which has been approved on the other similar lots in the same parcel, is proposed to be constructed on this lot. Currently, the lot is under construction with a valid building permit (B99004994) issued on February 22, 1999.

The approved site plans allow a maximum 40% lot coverage for Phase I and 44% for Phase II. However, as stated by the applicant, both the developer and the plan reviewers assumed that the project had an approval to increase the lot coverage to 44% with 10% administrative deviation same as the Phase II of the development. The developer is also unable to reapply for the limited administrative deviation due to the fact that Phase I has been substantially

developed. Therefore, this special situation must be rectified on an individual basis by way of a variance via Board of Adjustment's approval.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE THE RESULT OF ACTIONS OF THE APPLICANT:

NO. special circumstances and conditions are not the result of actions of the applicant. The applicant has completely constructed a 4,072 square foot "Tara Model" unit with a building permit and a final CO for the subject lot (lot 2). This same model unit has been approved for the other similar lots in the same parcel. Recently the additional lot coverage of 0.39% was discovered along with the other six lots in the same development. In order to obtain a final CO, the applicant is seeking a variance to allow the lot coverage to exceed the maximum of 40% by 0.39% for the existing single-family residence. The event

leading to this variance is not the actions of the applicant. Rather, the applicant has proceeded in good faith to apply this application in order to satisfy the code.



3. GRANTING OF THE VARIANCE SHALL CONFER UPON THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

NO. Granting this variance will not confer upon the applicant any special privileges denied to other parcels in the same district. The intent of the lot coverage regulation is to ensure a balance between indoor and outdoor area on the lot. Furthermore, open space requirement restrict lot coverage to ensure proper land is reserved for passive outdoor living, landscaping and parking areas. In this case, approval of the variance request will not impact any adjacent property owner's due to the fact that the subject lot abuts to an existing lake along the rear property line and the required setbacks will be met. The 0.39% exceeding the maximum-allowed lot coverage will be minimal and not visually or physically detected. The proposed single-family residence will be still in keeping with surrounding neighborhood while enhancing the property owners' use of the lot, which is commonly enjoyed by the other residents in the same area.

4. A LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

YES. A literal interpretation of the terms and provisions of the code will deprive the applicant of rights commonly enjoyed by other parcels of land in the same area. As previously mentioned, within Phase I, 14 lots were and will be constructed with the 4,072 square foot "Tara Model" unit. Nine of them have been completed with final CO. The subject lot is among the remaining five lots which have not been constructed or issued a final CO. Except the 0.39% increase of the lot coverage, all other property development regulations are adhered to, including setback requirements. therefore, granting this variance will not detract from the residential ambiance since the increase in lot coverage are not visually or physically noticeable by the residents in the development. Also the existing lake to the north along the subject rear property line mitigates the increase in lot coverage.

5. THE APPROVAL OF THE VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

YES. The approval of this variance is the minimum variance that would allow a reasonable use of the subject lot. As previously mentioned, the lot coverage increase is minimal and a balance between the indoor-outdoor quality of life is the same. In addition, the subject property abuts to an existing lake along the rear property line. Therefore, the 0.39% lot coverage increase for the subject single-family residence are not visually detected and does not impact the adjacent neighbors because the existing structure still meets the required building setbacks.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

YES. Granting this variance will be consistent with the intent of the Code and Comprehensive Plan. The purpose and intent of the Code is to preserve the quality of life and aesthetics of the residential development. Furthermore, the objective of lot coverage regulations is to provide a balance between the indoor-outdoor quality of life. The lot coverage increase are not visually detected. The goals and objectives of the Code will be met since there is an existing lake abutting the rear of the subject property to the west and, as previously indicated, the single-family residence meets all the other property development regulations.

7. THE GRANT OF THE VARIANCE WILL BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

NO. The approval of this variance will not be injurious or detrimental to the surrounding area. The granting of this variance will not have a negative impact on the adjacent properties because the building setback requirements are met and there is an existing lake abutting to the north of the subject lot. Therefore, the minimal 0.39% increase in lot coverage are not visually detected. Furthermore, it will enhance the aesthetics of the subject property and maintain property values in the surrounding neighborhood.

#### ENGINEERING COMMENTS

None. (Eng)

#### ZONING CONDITIONS

1. By January 15, 2000, the property owner shall provide the Building Division with a copy of the Board of Adjustment Result letter and a copy of the Site Plan presented to the Board, in order for B99004994 to receive a final Certificate of Occupancy. (DATE: BUILDING PERMIT-Bldg)
2. By August 15, 1999, The BA Zoning staff shall ensure the certified site plan has a notation on lot 2 in Phase I indicating the approved building coverage. (DATE: MONITORING-ZONING-BA)
3. The 4,072 square foot "Tara Model", as shown on the Exhibit #9, in the BA file (BA99-052) shall not be modified for this lot. (ONGOING)

Item five, B of A 99-00053. The owner is Sterling Community, Inc., a Florida corporation. To allow a lot coverage increase by one point eight nine percent.

#### STAFF RECOMMENDATIONS

APPROVAL, based upon the following application of the standards enumerated in Article 5, Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a varaince.

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

YES. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure. The subject lot 17 is within Parcel C of Phase I of Kent Property PUD, within the Regency Lake Estates subdivision, in the PUD Zoning District. (Pet. 94-04). It is among the 137 lots approved for Phase I of the development, of which 132 lots have been complete with final CO. "Tara Model" unit, which has been approved on the other similar lots in the same parcel, is proposed to be constructed on this lot. Currently, the subject lot is vacant and proposed to be constructed 4,072 square foot "Tara Model" unit.

The approved site plans allow a maximum 40% lot coverage for Phase I and 44% for Phase II. However, as stated by the applicant, both the developer and the plan reviewers assumed that the project had an approval to increase the lot coverage to 44% with 10% administrative deviation same as the Phase II of the development. The developer is also unable to reapply for the limited administrative deviation due to the fact that Phase I has been substantially

developed. Therefore, this special situation must be rectified on an individual basis by way of a variance via Board of Adjustment's approval.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE THE RESULT OF ACTIONS OF THE APPLICANT:

NO. special circumstances and conditions are not the result of actions of the applicant. The applicant has completely constructed a 4,072 square foot "Tara Model" unit with a building permit and a final CO for the subject lot (lot 17). This same model unit has been approved for the other similar lots in the same parcel. Recently the additional lot coverage of 1.89% was discovered along with the other six lots in the same development. In order to obtain a final CO, the applicant is seeking a variance to allow the lot coverage to exceed the maximum of 40% by 1.89% for the existing single-family residence. The event leading to this variance is not the actions of the applicant. Rather, the applicant has proceeded in good faith to apply this application in order to satisfy the code.

3. GRANTING OF THE VARIANCE SHALL CONFER UPON THE

APPLICANT SPECIAL PRIVILEGE(S) DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

NO. Granting this variance will not confer upon the applicant any special privileges denied to other parcels in the same district. The intent of the lot coverage regulation is to ensure a balance between indoor and outdoor area on the lot. Furthermore, open space requirement restrict lot coverage to ensure proper land is reserved for passive outdoor living, landscaping and parking areas. In this case, approval of the variance request will not impact any adjacent property owner's due to the fact that the subject lot abuts to an existing lake along the rear property line and the required setbacks will be met. The 1.89% exceeding the maximum-allowed lot coverage will be minimal and not visually or physically detected. The proposed single-family residence will be still in keeping with surrounding neighborhood while enhancing the property owners' use of the lot, which is commonly enjoyed by the other residents in the same area.

4. A LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

YES. A literal interpretation of the terms and provisions of the code will deprive the applicant of rights commonly enjoyed by other parcels of land in the same area. As previously mentioned, within Phase I, 14 lots were and will be constructed with the 4,072 square foot "Tara Model" unit. Nine of them have been completed with final CO. The subject lot is among the remaining five lots which have not been constructed or issued a final CO. Except the 1.89% increase of the lot coverage, all other property development regulations are adhered to, including setback requirements. therefore, granting this variance will not detract from the residential ambiance since the increase in lot coverage are not visually or physically noticeable by the residents in the development. Also the existing lake to the north along the subject rear property line mitigates the increase in lot coverage.

5. THE APPROVAL OF THE VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

YES. The approval of this variance is the minimum variance that would allow a reasonable use of the subject lot. As previously mentioned, the lot coverage increase is minimal and a balance between the indoor-outdoor quality of life is the same. In addition, the subject property abuts to an existing lake along the rear property line. Therefore, the 1.89% lot coverage increase for the subject single-family residence are not visually detected and does not impact the adjacent neighbors because the existing structure still meets the required building setbacks.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE

PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE  
COMPREHENSIVE PLAN AND THIS CODE:

YES. Granting this variance will be consistent with the intent of the Code and Comprehensive Plan. The purpose and intent of the Code is to preserve the quality of life and aesthetics of the residential development. Furthermore, the objective of lot coverage regulations is to provide a balance between the indoor-outdoor quality of life. The lot coverage increase are not visually detected. The goals and objectives of the Code will be met since there is an existing lake abutting the rear of the subject property to the southeast and, as previously indicated, the single-family residence meets all the other property development regulations.

7. THE GRANT OF THE VARIANCE WILL BE INJURIOUS TO THE  
AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC  
WELFARE:

NO. The approval of this variance will not be injurious or detrimental to the surrounding area. The granting of this variance will not have a negative impact on the adjacent properties because the building setback requirements are met and there is an existing lake abutting to the north of the subject lot. Therefore, the minimal 1.89% increase in lot coverage are not visually detected. Furthermore, it will enhance the aesthetics of the subject property and maintain property values in the surrounding neighborhood.

ENGINEERING COMMENTS

None. (Eng)

ZONING CONDITIONS

1. By April 15, 2000, the property owner shall provide the Building Division with a copy of the Board of Adjustment Result letter and a copy of the Site Plan presented to the Board, in order for B99004994 to receive a final Certificate of Occupancy.  
(DATE: BUILDING PERMIT-Bldg)
2. By August 15, 1999, The BA Zoning staff shall ensure the certified site plan has a notation on lot 17 in Phase I indicating the approved building coverage.  
(DATE: MONITORING-ZONING-BA)
3. The 4,072 square foot "Tara Model", as shown on the Exhibit #9, in the BA file (BA99-052) shall not be modified for this lot. (ONGOING)

a Florida corporation. To allow a lot coverage increase by point nine two percent.

#### STAFF RECOMMENDATIONS

APPROVAL, based upon the following application of the standards enumerated in Article 5, Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a varaince.

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

YES. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure.

The subject lot 21 is within Parcel C of Phase I of Kent Property PUD, within the Regency Lake Estates subdivision, in the PUD Zoning District. (Pet. 94-04). It is among the 137 lots approved for Phase I of the development, of which 132 lots have been complete with final CO. "Tara Model" unit, which has been approved on the other similar lots in the same parcel, is proposed to be constructed on this lot. Currently, the subject lot is vacant and proposed to be constructed 4,072 square foot "Tara Model" unit.

The approved site plans allow a maximum 40% lot coverage for Phase I and 44% for Phase II. However, as stated by the applicant, both the developer and the plan reviewers assumed that the project had an approval to increase the lot coverage to 44% with 10% administrative deviation same as the Phase II of the development. The developer is also unable to reapply for the limited administrative deviation due to the fact that Phase I has been substantially

developed. Therefore, this special situation must be rectified on an individual basis by way of a variance via Board of Adjustment's approval.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE THE RESULT OF ACTIONS OF THE APPLICANT:

NO. special circumstances and conditions are not the result of actions of the applicant. The applicant has completely constructed a 4,072 square foot "Tara Model" unit with a building permit and a final CO for the subject lot (lot 21). This same model unit has been approved for the other similar lots in the same parcel. Recently the additional lot coverage of .92% was discovered along with the other six lots in the same development. In order to obtain a final CO, the applicant is seeking a variance to allow the lot coverage to exceed the maximum of 40% by .92% for the existing single-family residence. The event leading to this variance is not the actions of the applicant. Rather, the applicant has proceeded in good faith to apply this application in order to satisfy the code.

3. GRANTING OF THE VARIANCE SHALL CONFER UPON THE

APPLICANT SPECIAL PRIVILEGE(S) DENIED BY THE COMPREHENSIVE  
PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR  
STRUCTURES, IN THE SAME DISTRICT:

NO. Granting this variance will not confer upon the applicant any special privileges denied to other parcels in the same district. The intent of the lot coverage regulation is to ensure a balance between indoor and outdoor area on the lot. Furthermore, open space requirement restrict lot coverage to ensure proper land is reserved for passive outdoor living, landscaping and parking areas. In this case, approval of the variance request will not impact any adjacent property owner's due to the fact that the subject lot abuts to an existing lake along the rear property line and the required setbacks will be met. The 0.92% increase in the maximum-allowed

lot coverage will be minimal and not visually or physically detected. The proposed single-family residence will be still in keeping with surrounding neighborhood while enhancing the property owners' use of the lot, which is commonly enjoyed by the other residents in the same area.

4. A LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

YES. A literal interpretation of the terms and provisions of the code will deprive the applicant of rights commonly enjoyed by other parcels of land in the same area. As previously mentioned, within Phase I, 14 lots were and will be constructed with the 4,072 square foot "Tara Model" unit. Nine of them have been completed with final CO. The subject lot is among the remaining five lots which have not been constructed or issued a final CO. Except the 0.92% increase of the lot coverage, all other property development regulations are adhered to, including setback requirements. therefore, granting this variance will not detract from the residential ambiance since the increase in lot coverage are not visually or physically noticeable by the residents in the development. Also the existing lake to the west along the subject rear property line mitigates the increase in lot coverage.

5. THE APPROVAL OF THE VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

YES. The approval of this variance is the minimum variance that would allow a reasonable use of the subject lot. As previously mentioned, the lot coverage increase is minimal and a balance between the indoor-outdoor quality of life is the same. In addition, the subject property abuts to an existing lake along the rear property line. Therefore, the 0.92% lot coverage increase for the subject single-family residence are not visually detected and does not impact the adjacent neighbors because the structure will still meet the required building setbacks.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:



YES. Granting this variance will be consistent with the intent of the Code and Comprehensive Plan. The purpose and intent of the Code is to preserve the quality of life and aesthetics of the residential development. Furthermore, the objective of lot coverage regulations is to provide a balance between the indoor-outdoor quality of life. The lot coverage increase are not visually detected. The goals and objectives of the Code will be met since there is an existing lake abutting the rear of the subject property to the west and, as previously indicated, the single-family residence meets all the other property development regulations.

7. THE GRANT OF THE VARIANCE WILL BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

NO. The approval of this variance will not be injurious or detrimental to the surrounding area. The granting of this variance will not have a negative impact on the adjacent properties because the building setback requirements are met and there is an existing lake abutting to the north of the subject lot. Therefore, the minimal 0.92% increase in lot coverage are not visually detected. Furthermore, it will enhance the aesthetics of the subject property and maintain property values in the surrounding neighborhood.

#### ENGINEERING COMMENTS

None. (Eng)

#### ZONING CONDITIONS

1. By April 15, 2000, the property owner shall provide the Building Division with a copy of the Board of Adjustment Result letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. (DATE: BUILDING PERMIT-Bldg)
2. By August 15, 1999, The BA Zoning staff shall ensure the certified site plan has a notation on lot 21 in Phase I indicating the approved building coverage. (DATE: MONITORING-ZONING-BA)
3. The 4,072 square foot "Tara Model", as shown on the Exhibit #9, in the BA file (BA99-052) shall not be modified for this lot. (ONGOING)

Item seven B of A 99-00055, Sterling Community, Inc., a Florida corporation. To allow a lot coverage increase by one point fifty-five percent.

## STAFF RECOMMENDATIONS

APPROVAL, based upon the following application of the standards enumerated in Article 5, Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a varaince.

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

YES. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure. The subject lot 26 is within Parcel C of Phase I of Kent Property PUD, within the Regency Lake Estates subdivision, in the PUD Zoning District. (Pet. 94-04). It is among the 137 lots approved for Phase I of the development, of which 132 lots have been complete with final CO. "Tara Model" unit, which has been approved on the other similar lots in the same parcel, is proposed to be constructed on this lot. Currently, the subject lot is vacant and proposed to be constructed 4,072 square foot "Tara Model" unit.

The approved site plans allow a maximum 40% lot coverage for Phase I and 44% for Phase II. However, as stated by the applicant, both the developer and the plan reviewers assumed that the project had an approval to increase the lot coverage to 44% with 10% administrative deviation same as the Phase II of the development. The developer is also unable to reapply for the limited administrative deviation due to the fact that Phase I has been substantially

developed. Therefore, this special situation must be rectified on an individual basis by way of a variance via Board of Adjustment's approval.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE THE RESULT OF ACTIONS OF THE APPLICANT:

NO. special circumstances and conditions are not the result of actions of the applicant. The applicant is proposing to construct a 4,072 square foot "Tara Model" unit with a building permit and a final CO for the subject lot (lot 26). This same model unit has been approved for the other similar lots in the same parcel. Recently the additional lot coverage of 1.55% was discovered along with the other six lots in the same development. In order to obtain a final CO, the applicant is seeking a variance to allow the lot coverage to exceed the maximum of 40% by 1.55% for the existing single-family residence. The event leading to this variance is not the actions of the applicant. Rather, the applicant has proceeded in good faith to apply this application in order to satisfy the code.

3. GRANTING OF THE VARIANCE SHALL CONFER UPON THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

NO. Granting this variance will not confer upon the applicant any special privileges denied to other parcels

in the same district. The intent of the lot coverage regulation is to ensure a balance between indoor and outdoor area on the lot. Furthermore, open space requirement restrict lot coverage to ensure proper land is reserved for passive outdoor living, landscaping and parking areas. In this case, approval of the variance request will not impact any adjacent property owner's due to the fact that the subject lot abuts to an existing lake along the rear property line and the required setbacks will be met. The 1.55% exceeding the maximum-allowed lot coverage will be minimal and not visually or physically detected. The proposed single-family residence will be still in keeping with surrounding neighborhood while enhancing the property owners' use of the lot, which is commonly enjoyed by the other residents in the same area.

4. A LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

YES. A literal interpretation of the terms and provisions of the code will deprive the applicant of rights commonly enjoyed by other parcels of land in the same area. As previously mentioned, within Phase I, 14 lots were and will be constructed with the 4,072 square foot "Tara Model" unit. Nine of them have been completed with final CO. The subject lot is among the remaining five lots which have not been constructed or issued a final CO. Except the 1.55% increase of the lot coverage, all other property development regulations are adhered to, including setback requirements. therefore, granting this variance will not detract from the residential ambiance since the increase in lot coverage are not visually or physically noticeable by the residents in the development. Also the existing lake to the northwest along the subject rear property line mitigates the increase in lot coverage.

5. THE APPROVAL OF THE VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

YES. The approval of this variance is the minimum variance that would allow a reasonable use of the subject lot. As previously mentioned, the lot coverage increase is minimal and a balance between the indoor-outdoor quality of life is the same. In addition, the subject property abuts to an existing lake along the rear property line. Therefore, the 1.55% lot coverage increase for the subject single-family residence are not visually detected and does not impact the adjacent neighbors because the structure will still meet the required building setbacks.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

YES. Granting this variance will be consistent with the intent of the Code and Comprehensive Plan. The purpose and intent of the Code is to preserve the quality of life and aesthetics of the residential development.

Furthermore, the objective of lot coverage regulations is to provide a balance between the indoor-outdoor quality of life. The lot coverage increase are not visually detected. The goals and objectives of the Code will be met since there is an existing lake abutting the rear of the subject property to the northwest and, as previously indicated, the single-family residence meets all the other property development regulations.

7. THE GRANT OF THE VARIANCE WILL BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

NO. The approval of this variance will not be injurious or detrimental to the surrounding area. The granting of this variance will not have a negative impact on the adjacent properties because the building setback requirements are met and there is an existing lake abutting to the north of the subject lot. Therefore, the minimal 1.55% increase in lot coverage are not visually detected. Furthermore, it will enhance the aesthetics of the subject property and maintain property values in the surrounding neighborhood.

#### ENGINEERING COMMENTS

None. (Eng)

#### ZONING CONDITIONS

1. By April 15, 2000, the property owner shall provide the Building Division with a copy of the Board of Adjustment Result letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. (DATE: BUILDING PERMIT-Bldg)
2. By August 15, 1999, The BA Zoning staff shall ensure the certified site plan has a notation on lot 26 in Phase I indicating the approved building coverage. (DATE: MONITORING-ZONING-BA)
3. The 4,072 square foot "Tara Model", as shown on the Exhibit #9, in the BA file (BA99-052) shall not be modified for this lot. (ONGOING)

Item ten, B of A 99-00058, Sterling Community, Inc., a Florida corporation. To allow a lot coverage increase by one point zero five percent.

#### STAFF RECOMMENDATIONS

APPROVAL, based upon the following application of the standards enumerated in Article 5, Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a variance.

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

YES. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure. The subject lot 52 is within Parcel C of Phase I of Kent Property PUD, within the Regency Lake Estates subdivision, in the PUD Zoning District. (Pet. 94-04). It is among the 137 lots approved for Phase I of the development, of which 132 lots have been complete with final CO. "Tara Model" unit, which has been approved on the other similar lots in the same parcel, is proposed to be constructed on this lot. Currently, the subject lot is vacant and proposed to be constructed 4,072 square foot "Tara Model" unit.

The approved site plans allow a maximum 40% lot coverage for Phase I and 44% for Phase II. However, as stated by the applicant, both the developer and the plan reviewers assumed that the project had an approval to increase the lot coverage to 44% with 10% administrative deviation same as the Phase II of the development. The developer is also unable to reapply for the limited administrative deviation due to the fact that Phase I has been substantially

developed. Therefore, this special situation must be rectified on an individual basis by way of a variance via Board of Adjustment's approval.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE THE RESULT OF ACTIONS OF THE APPLICANT:

NO. special circumstances and conditions are not the result of actions of the applicant. The applicant is proposing to construct a 4,072 square foot "Tara Model" unit with a building permit and a final CO for the subject lot (lot 52). This same model unit has been approved for the other similar lots in the same parcel. Recently the additional lot coverage of 1.05% was discovered along with the other six lots in the same development. In order to obtain a final CO, the applicant is seeking a variance to allow the lot coverage to exceed the maximum of 40% by 1.05% for the existing single-family residence. The event leading to this variance is not the actions of the applicant. Rather, the applicant has proceeded in good faith to apply this application in order to satisfy the code.

3. GRANTING OF THE VARIANCE SHALL CONFER UPON THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

NO. Granting this variance will not confer upon the applicant any special privileges denied to other parcels in the same district. The intent of the lot coverage regulation is to ensure a balance between indoor and outdoor area on the lot. Furthermore, open space requirement restrict lot coverage to ensure proper land is reserved for passive outdoor living, landscaping and

parking areas. In this case, approval of the variance request will not impact any adjacent property owner's due to the fact that the subject lot abuts to an existing lake along the rear property line and the required setbacks will be met. The 1.05% increase in the maximum-allowed

lot coverage will be minimal and not visually or physically detected. The proposed single-family residence will be still in keeping with surrounding neighborhood while enhancing the property owners' use of the lot, which is commonly enjoyed by the other residents in the same area.

4. A LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

YES. A literal interpretation of the terms and provisions of the code will deprive the applicant of rights commonly enjoyed by other parcels of land in the same area. As previously mentioned, within Phase I, 14 lots were and will be constructed with the 4,072 square foot "Tara Model" unit. Nine of them have been completed with final CO. The subject lot is among the remaining five lots which have not been constructed or issued a final CO. Except the 1.05% increase of the lot coverage, all other property development regulations are adhered to, including setback requirements. therefore, granting this variance will not detract from the residential ambiance since the increase in lot coverage are not visually or physically noticeable by the residents in the development. Also the existing lake to the east along the subject rear property line mitigates the increase in lot coverage.

5. THE APPROVAL OF THE VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

YES. The approval of this variance is the minimum variance that would allow a reasonable use of the subject lot. As previously mentioned, the lot coverage increase is minimal and a balance between the indoor-outdoor quality of life is the same. In addition, the subject property abuts to an existing lake along the rear property line. Therefore, the 1.05% lot coverage increase for the subject single-family residence are not visually detected and does not impact the adjacent neighbors because the structure will still meet the required building setbacks.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

YES. Granting this variance will be consistent with the intent of the Code and Comprehensive Plan. The purpose and intent of the Code is to preserve the quality of life and aesthetics of the residential development. Furthermore, the objective of lot coverage regulations is to provide a balance between the indoor-outdoor quality of life. The lot coverage increase are not visually detected. The goals and objectives of the Code will be

met since there is an existing lake abutting the rear of the subject property to the east and, as previously indicated, the single-family residence meets all the other property development regulations.

7. THE GRANT OF THE VARIANCE WILL BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

NO. The approval of this variance will not be injurious or detrimental to the surrounding area. The granting of this variance will not have a negative impact on the adjacent properties because the building setback requirements are met and there is an existing lake abutting to the north of the subject lot. Therefore, the minimal 1.05% increase in lot coverage are not visually detected. Furthermore, it will enhance the aesthetics of the subject property and maintain property values in the surrounding neighborhood.

#### ENGINEERING COMMENTS

None. (Eng)

#### ZONING CONDITIONS

1. By April 15, 2000, the property owner shall provide the Building Division with a copy of the Board of Adjustment Result letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. (DATE: BUILDING PERMIT-Bldg)
2. By August 15, 1999, The BA Zoning staff shall ensure the certified site plan has a notation on lot 52 in Phase I indicating the approved building coverage. (DATE: MONITORING-ZONING-BA)
3. The 4,072 square foot "Tara Model", as shown on the Exhibit #9, in the BA file (BA99-052) shall not be modified for this lot. (ONGOING)

CHAIRMAN BASEHART: You missed number four.

MS. CAI: Number four. I'm sorry. Oh, okay.

Item number four, B of A 99-00052, Cypress Lake Estates Lake Worth Limited Partnership. To allow a lot coverage increase by zero point three nine percent.

CHAIRMAN BASEHART: Okay. Mr. Lelonek, would you like to make a presentation?

MR. LELONEK: Yes, sir.

CHAIRMAN BASEHART: You've been sworn in?

MR. LELONEK: Yes, sir.

Joe Lelonek, for the record, Land Design South, 1280 North Congress Avenue, West Palm Beach.

I represent Sterling Communities, who is the builder at this time for this community.

And the community we're talking about, previously known in the county as Kent Property; but now it's Cypress

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I represent Sterling Communities, who is the builder at this time for this community.

And the community we're talking about, previously known in the county as Kent Property; but now it's Cypress Lakes Estates. And bear with me here. I'll move over to the graphic.

This is a situation -- and I need to step back a second and kind of give a code issue to some of the individuals on the -- that may be on the board that haven't been dealing with this. The county code for single-family homes allows up to forty percent lot coverage for buildings. But there's also a provision in the code that allows you to exceed that by ten percent just through DRC approval. And many of these newer communities have done that as a standard course. So the norm in the areas for multi-family -- or, not multi-family -- single-family PUD type of communities is forty-four percent lot coverage.

This property -- at least phase one of this property is an old approval. It's about four years old on the original approval. And this item at this community only received the forty percent lot coverage approval for one phase.

Now, about a year or two later, the developer came in and got an approval of the second phase for this project. And, as normal under the newer code sections, they asked for forty-four percent. They got that approval.

So you've got two situations in the same community where one set of lots is approved at forty percent, and the second set of lots is approved at forty-four percent.

There have also been a number of builders that have come on line over the years. This was originally an Engle project that they sold some lots to Four Waves who built some of those lots. And then, ultimately, my client,



Sterling Communities, came in and has been finishing up the remainder of the lots, as well as phase two.

Now, they have one particular model that they've been selling. Selling quite well. It seems to be one of their largest models. In an age where more people like to cocoon in their houses, people want larger houses; they want nicer-looking houses and so forth. So these are a little bit larger type of buildings. Is called the Tara, fittingly. But this is one of the models where they've been building quite successfully on this project. There are nine of those different models throughout what's already constructed on this site.

However, the problem has come in on five of those -- five additional of those Tara models, which have been permitted -- or starting to get permitted through the middle portion of this site.

It appears about a year ago that two of these lots that have the Tara model on them were permitted through Palm Beach County, built, have been sold; and people are living there. Lot number two, which is up towards the front of the community, that also has received a permit.

They have started construction. And midway through inspections, somebody caught something wrong. Seems that the building department has been reviewing the remainder of the community here at the same level, the forty-four percent, as this phase two, which is understandable. It's a -- something that was just overlooked and so forth. And the builder, not realizing it as well, was selling some of those lots with this larger model on them.

Now, what are we talking about here? We're talking about a model that on some of these lots exceed the square footage allowed on a lot, no setbacks, but the square footage allowed on the lot by thirty-nine square feet to a hundred and eighty square feet. We're talking -- on some of the models, we're only talking a few feet, small bathroom size or even smaller. What does this equate to?

Well, it equates to, most likely, the architectural detailing on the house, the front entry foyer, the back porch, those things that are covered, because the county measures every bit under the roof as the building coverage. So even if you have a small, little portion of your back porch that is roofed in but not enclosed, the county still counts that in as building square footage.

So what we have is a very nice-looking model that was approved on some lots that now we're having a problem because the building department missed some things. The builder didn't check into it because he was receiving permits and rightly so. And now we've got an issue where the building department about two months ago had caught this issue, and we're trying to clear this issue up.

The three lots I had mentioned before are built. One's -- the last model there is trying to receive its CO so the people can move in next week. That's when they're closing is scheduled. The remaining four lots of the seven for the variance are those lots that have taken deposits. They have done all their selections for the units. And they are waiting for the permits to be released from the county. The county has been doing all the review necessary and has held those permits pending resolve of this issue.

Now, as I mentioned, this phase two has the lot coverage approved at forty-four percent. It's identical

in layout and size of units, size of lots, as some of the interior of this development. Now, it's interesting to point out, this was one of those older developments. They had some larger lots on this project around the perimeter of the project that have a little bit larger yards, same models and so forth. But, on the inside of the development, there's all the smaller lot sizes. The lots that we're referring to now that are part of the variance are all on lakes. They all have additional open space behind their units from lake maintenance easements, the slopes and the water surface.

And, as I mentioned earlier, the additional square footage that we're talking about is all in architectural detailing for the home, the covered entry in the front that I was talking about, the covered patio in the back that we're referring to, those areas that people like but they're not really under air that look like -- give an extra architectural touch. You'll notice that this is an interesting design. It's got a three-car garage, but it's a forty-five degree angle on the garage. Gives a little bit extra room out front for those things like shops and so forth.

The key to this is, is that the square footages that we're talking about are minor. They're insignificant. They're very little -- when looking at it from the street, you couldn't tell thirty-nine square feet on this lot. You couldn't tell a hundred and eighty square feet. You pull some of the architectural detailing off these houses like the front entry and so forth, well, yeah, you can probably tell the difference then. You're getting rid some of the fineness, the flair, the added benefits of what you can do with thirty-nine square feet on the front of the house.

So we're not talking about something that's injurious to the development. We're talking about something that, just by the calculations the county used for the building coverage, anything that's under roof instead of under air, that we are above the square footage total for building coverage on these lots. That's something that also is pointed out in your staff reports, if you've looked through them.

I think we have covered the seven criteria very well, as judged by staff. Whereas, these are issues that we have lots out in this development that are approved for a building this size. We have situations where the county has released permits for these lots, and we have gone in good faith to try to correct this issue for the remainder of these lots so that everything is consistent through the remainder of this community.

Is this injurious to anyone's health and welfare? Well, thirty-nine square feet to a hundred and eighty square feet of just overhangs, front entry and so forth?

If this variance wasn't approved, then what are we doing?

Well, we're probably taking away some of the architectural look, some of the value of these homes. We're taking away some of the usable extras of these homes that people like and are similar to other communities that are built in this area, even in this community.

So it's one of those things where we feel that this variance is well-justified. It's something that is commonplace in the industry, commonplace in this county, and entirely allowed by your code. But it's not allowed

at this late date because we didn't get it approved under the site plan. However, the county is still reviewing it that way. So, obviously, this is something that is consistent with the intent of the code, consistent with the intent of the community and not injurious to the health and welfare of this community.

Now, with that, I'd like to leave some time for the residents to get up and discuss what some of their issues are. I would like to keep some of the issues to the items in the variance because many of the issues that they have are with the developer and some of the other things that are going on in the community. So I'd like to try to keep this to the variance as much as possible. But I would like to reserve some time at the end to give some final comments.

CHAIRMAN BASEHART: Okay. Thank you.

Based on the comment of the applicant, what I'd like to point out to the residents is this board has the authority to review and approve variances from the code.

And what's been applied for, you're well aware, is minor variances to the lot coverage provision in the code. This board is not a land-use board. We're not a zoning board.

And we're not a code enforcement board. And we're also not a chamber of commerce. So what I'd appreciate -- and, if anyone gets off target, we'll remind you. Complaints that you have about the developer or about the development or complaints or objections to issues other than what we're specifically here to consider today are not relevant to our consideration. And we won't listen to them. So you should limit your comments to -- if you object, to the impacts that will be generated or created by the granting of the variance that's been requested. And we need to limit our discussion to that.

Okay. With that, Jon?

MR. MacGILLIS: Joyce has put together a chart here that clearly explains what each of the lots -- where they are. I think as we go along, we can --

CHAIRMAN BASEHART: Okay.

MR. MacGILLIS: I know we only got a couple copies here if somebody from the public wants --

CHAIRMAN BASEHART: With that, we'll go to the public.

So anyone that wishes to speak in favor or in opposition of this matter, if you could come up to the microphone one at a time.

If you could give us your name and let us know whether you've been sworn.

MR. SCHWARTZ: I've been sworn in.

My name is Henry Schwartz. I own and occupy lot No. 1 in the BOFA 99-00052. And I am objecting to what they've done on lot 2 because they built the house -- it's ready to be occupied -- before I ever got the notice.

Now, I've called and I've gotten some answers. The answers were, oh, it's so small you will never notice it.

Nobody has said how many feet that involves and the difference between my house now and the house that's been built on lot number two.

It is three and a half feet. My (sic) house is now three and a half feet closer to me than had it been built basically with a different house that covered the right amount of space. Now, three and a half feet may not mean a lot to you; but, between me and the house now that they

built next to me, they have put in two great big air conditioners because they want a double thing. And those air conditioners are on that side of the house. So the difference between -- I mean, the space between the big air conditioners and the lot line is hardly enough to walk through. They've also planted a big tree back there, the limbs of which, some are over the line.

Now, I know that I'm making a protest in futility because you're going to grant this thing. But two years ago I bought this house. I paid a lot of extra money for the corner lot because I wanted some space. Now, it's been cut by three feet. That's, basically, my objection.

And it is less feet between my house and now this house than the large majority of houses in this development.

CHAIRMAN BASEHART: All right. I think maybe there's some confusion here because the applicant has not requested a setback variance. The house isn't any closer than it could have been --

MR. SCHWARTZ: I understand that. It's a lot closer than all -- than ninety-five percent of all the houses in this community.

CHAIRMAN BASEHART: But it's not in violation of the code. We're not here today -- bottom line is --  
A I understand.

CHAIRMAN BASEHART: -- if the variance is approved, the house doesn't have to be moved.

MR. SCHWARTZ: What does that do for me? I mean, when all the other houses have a much larger space, which I thought I was going to get because I bought a bigger lot and was told, oh, all these houses are going to be so many feet. Now, that's all hearsay. That's what they told me. That isn't what is written down on a plan somewhere.

But I've measured a lot of the houses on my street, and everybody has a lot more room between houses than I'm going to have.

CHAIRMAN BASEHART: I guess the question that we have to ask you is: How does the granting of this variance impact that situation?

MR. SCHWARTZ: I don't know. It's called -- it's called an estate house. And, back when I bought this house, they said, estate house means you've got a lot of room between homes. Does that mean that my estate house is now not quite as valuable as it was before? I don't know. But it bothers me because it might be. And I've put a lot of money into it.

CHAIRMAN BASEHART: Okay. Thank you.  
Any other members of the public?

MR. SHRADER: Good morning. My name is Alfred Shrader. I'm a resident of Cypress Lakes. My address is 4275 Danielson Drive.

MR. SCHWARTZ: And you've been sworn in?

MR. SHRADER: Yes, I have.

I tend to agree with this gentleman here because I'm one of the first owners. And we were told that -- and I know for a fact -- this is an estate area. There were some lots in the development that are one-third acre. And what our problem -- I don't have a problem with the houses that are built because it was an oversight. People do make mistakes. We're all human. We agreed to that.

The fact that there are lots in this project that are one-third acre, and if you would -- if the builder would have taken a little care and -- prior and did a fit list

on these lots and not to jam a four-thousand-seven-hundred and twenty-two -- seven-hundred seventy-two square foot house on a ten-thousand square foot lot, I don't think -- you know, there's no care here for the people that already bought under different assumptions.

And, again, the fact that they -- the houses are already built, we can't do anything about that. We're not going to rip them down. We're not out here to hurt our neighbors. That's not our intent. We're not out here to hurt Sterling. They're out there to make a living. They're out there to make money.

But as far as going ahead and allowing him to do the four lots that are already -- that are existing, that, I definitely object to. We can still make that change now.

I think it's a fair compromise. Thank you.

CHAIRMAN BASEHART: Thank you.

Any other members of the public?

MR. HARTSENFORD: I'm Bill Hertsenford. 9201 Olmstead Drive. I'm the neighbor of lot 21.

CHAIRMAN BASEHART: You've been sworn in?

MR. HARTSENFORD: Yes, sir.

I'm a stranger in this town. I come from Holland originally, so excuse my accent. But when I came to West Palm Beach and later on to Lake Worth, I looked for a new house.

The builder, Engle, sold us this house and told us it's Cypress Lakes Estate. And I agree with the gentleman. It's estate house.

We looked around. We drove fifteen thousand miles in this surrounding area to look for a nice place. Finally, we found one. It was Cypress Lakes Estate. The builder, Engle Home, build a nice house on our lot. They had all the other lots, and they showed us some pictures.

And, okay, you have enough space around your house so you can walk around. You know, you don't have to push a lawn mower between bushes. It's not a problem.

Finally, we build our house. We live there now since January. And we are happy over there. Our lot next door was sold last May. We were on holiday. We came back and we saw the sign sold. We asked, what kind of house are we building there? And then they told us it will be Tara.

So we start taking measurements.

And I agree with the gentleman over here, if the Tara has been built on that lot 21, we hardly have space to walk between the houses, if you include the air conditioners. And, besides that, most of the time people build pools behind their houses because they have some space for it. So they want to also have a pool heater.

Can you imagine that, during the night, when the air conditioning is running, the pool heater is running, that I don't have estate house anymore. Engle sold those properties to Sterling. Now Sterling is doing now they couldn't sell those properties with little houses. They wanted the big houses because they could have more chances to sell those houses. That's what the gentleman told me.

Finally, we end up now with a lot of noise from one side, a lot of noise from the other side. And with this going on, I think I'll reconsider my choice and sell the property and go somewhere else.

I don't complain about Sterling itself. They have chance to build little houses. But they have also the chance to take care for the property Cypress Lake Estate.

And I think they kill a little bit now there promises because I was told we have no zero lot lines. Do you mean what this is? That I can walk my lawn mower between those houses. With their plans, you can't do that anymore. I invite you to have look over there.

Then this big house Tara, and they talk about forty square foot. It's not a forty square foot we complain about. We complain about the noise. We complain about the space between the houses. So I would like to have another plan on that lot. Thank you.

CHAIRMAN BASEHART: Okay. Again, I think we need to point out that the space between houses and the noise from the air conditioners -- the placement of the air conditioning units is not what's before us today. Okay?

MR. LELONEK: Let me clarify some things. The board is absolutely correct. We are not asking for any side setback waivers. These houses are built conforming to current code standards. Fifteen feet between houses or seven and a half feet to the lot lines. It's a normal single-family lot.

The forty to a hundred square feet that we're talking about, if there was a major problem, if it had to come out of somewhere is not going to come out of the width of this house. It's going to come out of the architectural detailing, as I mentioned, for the house. It will not change the setbacks.

So, yes, I understand that the builders may have told him over the years. And I don't know what Engle sales staff or Four Waves sales staff have been telling these people. But this is a normal single-family lot development, and the trend is to try to get as big a house as you possibly can for that cocooning type of effect. That is the trend in the market.

So we are not asking for any side setback waivers.

We are not asking to move any buildings closer. We are just looking for square footages to keep that same nice looking model on these lots that are approved in the remainder of the community and just dealing with these one set of lots here. That's all we're asking for.

MR. JACOBS: How large is the Tara model?

MR. LELONEK: It is four thousand and seventy-two feet. So with this gentleman's example -- I don't have the exact lot dimensions. On a ten-thousand-square-foot lot, you can do a four-thousand-foot home. That would make it seventy-two feet over on a normal situation.

Now, these lots are a little different. Some are varying a little bit. That's why we have thirty-nine percent to one point -- or point thirty-nine percent to one point eight percent.

MR. JACOBS: What other models are constructed in this community?

MR. LELONEK: There are, I believe, two or three other options. And I don't have those with me.

MR. HARTSENFORD: Objection. Sterling doesn't want to sell any houses but the Tara anymore.

MR. LELONEK: No. No. It's not want.

MR. HARTSENFORD: They don't want to --

MR. LELONEK: Sterling has already placed deposits and sold these lots. So it has not come to a question of what they want anymore. They have already placed deposits. There are people who are waiting for this variance to see what's going to happen to their future

home.

MR. JACOBS: Well, if they sold something they didn't have a right to sell, then that's a different problem.

MR. LELONEK: But the developer went in good faith all the way through this process. It was only discovered about two months ago that the building department had been giving these permits without looking at the old site plan.

And the builder had relied on thinking that it was forty-four percent like the new phase of this development. So it was an honest mistake that was made. There were deposits taken. There were buildings built. And two months ago was when this first surfaced, which is exactly the data that we started getting this variance together to come forward.

MR. JACOBS: What is the size of the other models that are being sold in that community?

MR. LELONEK: I do not have that information.

CHAIRMAN BASEHART: How many lots remain that are unsold at this point?

MR. LELONEK: The seven lots that we're dealing with, we've got three of those built. One to get a CO of those three. And then the four remaining lots, four remaining of these variances are the only ones in phase one that have to be sold.

CHAIRMAN BASEHART: So it's basically built out when these units are built?

MR. LELONEK: That's correct.

CHAIRMAN BASEHART: Okay.

Sir, you'll get a chance to speak in a minute.

MR. WICHINSKY: Joe, I need some clarification on something?

MR. LELONEK: Sure.

MR. WICHINSKY: We're not talking about side setbacks. But I need an understanding on -- for my purpose -- the distance between homes. With and without the variance, you're saying that the distance is still the same? The changes are within the unit?

MR. LELONEK: That's correct.

We will not change the setback or change any of the raw footprint for the home.

MR. WICHINSKY: If that's your statement, I hope the residents understand that. Regardless of whether a variance is granted or not, the distance between the houses remain the same. The changes relating to lot coverage to do not affect the distance between your home and that neighboring home. This is what's based upon the applicant's testimony.

MR. PUZZITIELLO: What was Engle putting their houses at? Side yard setback?

MR. LELONEK: Engle is a little bit different. Remember I had mentioned earlier on that there are some lots out there that are larger. I believe one of the residents had mentioned the same thing. Around the perimeter of this first phase, they had actually made some of those lots approximately a third acre. And I can't remember the width. But they were using the same models as they were using on the smaller lots. So in that situation, it looks like you had nice large side yards.

It was not a virtue of anything other than they had decided early on that on some of the lots they were going to make them larger estate type of lots.

And then the inside development where they had the

lakes and so forth, they would make those smaller lots so that they would have a normal standard product. Now, that was a conscious decision up front. They used the same model.

The ones we're dealing with are the ones that are on the inside that have been using those larger models and smaller lots.

MR. PUZZITIELLO: But on the streets that those models are on, those there, what are -- what are the side yard setbacks for the other houses? Are they all seven, eight, nine feet?

MR. LELONEK: Existing, I'm not sure exactly how many feet they are apart. They can go a minimum of seven and a half, as many of you know. But I don't know if many of those models have been slid or narrowed up on those lots.

Maybe some of the residents would know, actually.

MR. HARTSENFORD: Sir?

CHAIRMAN BASEHART: Go ahead.

MR. HARTSENFORD: I'd like to give a little bit comment, lot twenty-one --

CHAIRMAN BASEHART: You need to come to the mic. And you need to give your name again.

MR. HARTSENFORD: I'm sorry. Bill Hartsenford, 9201 Olmstead Drive, owner of lot twenty-two.

Lot twenty-one was owned by Engle Homes. And, when Engle Homes pulled out and sold the lot to Sterling, I had -- not really a friend, but people you know. And they make inquires to build on that lot. The answer Sterling gave them was, we don't build three bedrooms anymore.

So they had still smaller houses, but they didn't want to build smaller houses on the lot. The lot itself -- and you can see lot twenty-two. We are on the lake.

This lot over here, this is big lot. We don't have such a big lot. But, you know, our house gets really good on it.

If you build a Tara over here, we don't have any space. So they didn't want to build a three bedroom house on that lot. And that's my question. Why?

CHAIRMAN BASEHART: You know, obviously -- sir, can I ask you one question?

MR. HARTSENFORD: Certainly.

CHAIRMAN BASEHART: Do you know what the separation -- what the setback is from your house to your property line?

MR. HARTSENFORD: Yes. Seven feet. Seven point nine exactly.

CHAIRMAN BASEHART: So it's effectively the same setback that this house is going to have?

MR. HARTSENFORD: Yeah.

CHAIRMAN BASEHART: Okay. Thanks.

MR. SCHWARTZ: I'm still lot number one, Henry Schwartz.

CHAIRMAN BASEHART: You haven't moved since the last time we saw you.

MR. SCHWARTZ: My setback from the lot line is twelve feet.

CHAIRMAN BASEHART: Okay.

MR. SCHWARTZ: I figured I was going to get twelve feet or more on the other side. And it's seven and a half.

CHAIRMAN BASEHART: Okay.

MR. SCHWARTZ: That's why I said nobody gave me feet. But it is changing by almost four feet.



CHAIRMAN BASEHART: Okay. Thanks.  
Sir?

MR. SHRADER: My name is Mr. Shrader. I'd like to point out, we have -- the people cannot -- we understand we can't fight the side yard setback. It's seven and a half feet. It's twenty-five foot front yard, fifteen-foot rear yard.

When Engle was in there, Engle had a fit list. They would not put a big house on these standard lots. We had four models in that place that that's what they were selling. There was bigger lots for bigger houses.

What they're trying to do is take five pounds of garbage or ten pounds of garbage and put it into a five

pound bag. Okay? They got four thousand seventy-two square foot house stuffed on an eighty-five-foot-wide lot.

Now, they had a choice not to do that. They put up houses there side by side, identical models, identical colors without the community in mind. Our issue here is, the community was not taken in mind. It was only the dollar.

They do have a second plan right now, a contingency plan to cut these houses back. We can't really do anything legal about it if they bring it back or if you agree not to let them build these houses on these lots.

They can cut them down to size and meet the code. The fact remains that there's still a four thousand seventy-two foot lot house being put on a lot it shouldn't be put on. And we don't enjoy that. We weren't allowed to enjoy the same thing that Sterling wants to do.

If I wanted a three-car garage, Engle told us we couldn't have it. It wouldn't fit on the lot. But that difference in percent, it might have been given me a right to put that three-car garage on our lot. And, again, I bought an estate home. I wanted room around it. I didn't want a house stuffed -- ten pounds stuffed in a five-pound bag.

CHAIRMAN BASEHART: Which lot are you on, sir?

MR. SHRADER: Lot seventy-five.

CHAIRMAN BASEHART: Do you happen to know what your side setbacks are?

MR. SHRADER: Nineteen feet, both sides.

MR. LELONEK: Just a couple quick comments.

CHAIRMAN BASEHART: Why don't we see if there's anybody else that wanted to speak, first. Then you can address all of them.

Any other members of the public wish to speak?

(No response.)

CHAIRMAN BASEHART: Okay. Seeing none, then -- sir, do you want to speak?

AUDIENCE MEMBER: My kid brother spoke for me too.

CHAIRMAN BASEHART: Okay. Thank you.

Seeing that there are no more speakers, we're going to close the public hearing. And we'll let you provide your rebuttal and wrap up.

MR. LELONEK: Just quickly in surmising this. I think it's clear that there are a lot of expectations that may have been given when different builders were in this project. Maybe they said that you can't do this for one reason. You can't have this for another reason. Or there was some expectations that people may have had that, in reality, weren't there.

The fact of the matter is is that we are not changing

the side setbacks for this community. We're not asking for anything other than some increase in lot coverage for those things, as I mentioned, for architectural detailing and those just under roof areas that are counted into overall lot coverage for the site.

And, as I mentioned, I believe one of the gentlemen here mentioned a contingency plan. Well, certainly, you have a contingency plan. As I mentioned earlier, this is exactly what I mentioned, the covered entry may be taken off. The rear covered patio may be taken off. Those type of areas would not affect anyone else's enjoyment of their lot.

This property line, this lot line, and this building phase would still remain the same. The front of the building would still stay the same. What would happen?

Some of the architectural detailing would come off of the building. Is that helpful to the community? Not really.

Does it make a difference from overall enjoyment of the community? Well, I would stand to say that architectural detailing and so forth would probably be more helpful; but, in keeping this lot square footage that we're asking for today, what we're doing is we're trying to make this consistent with the rest of the community.

So we're not asking for anything other than a lot square footage to make it consistent with the second phase and those lots that are already built in this community with the Tara model. If we had an opportunity at this point in time to go to a different lot, we would do that or a different building, we would do that. Although, we've got seven lot owners here, four of which have deposits down and want to move into their house in a reasonable future, that want to get this variance approved so that they can enjoy the same things that their neighbors are enjoying.

MR. JACOBS: If you changed what you call the architectural detail -- in other words, let's say you eliminated the covered patio, then as between the developer and the potential owner, what happens then? Doesn't the potential owner have in his contract that part of his house is a covered rear patio?

MR. LELONEK: Certainly. They would be risking their contractual obligation with their purchaser.

MR. JACOBS: Suppose the purchaser elected to get out of his contract. What happens then?

MR. LELONEK: In that case, they would be given two options; one is to cut off these areas of the building that we're referring to; or, the second is, to go ahead with getting out of the contract and going to a different model or selling this model to somebody else without those two areas.

MR. JACOBS: Would the potential payer have the right to ask for a smaller model or a different model, not the Tara model?

MR. LELONEK: Possibly.

But, if you were buying a house with a three-car garage in this amount of square footage and it was the house you loved, would you settle for less?

MR. JACOBS: If I were buying a house, I wouldn't buy a four-thousand-foot house on a ten-thousand-foot lot.

CHAIRMAN BASEHART: Well, in differences of opinion, I understand where you're coming from. But the community members who want to buy into this do want that.

And a lot of individuals that are coming home from work and want to enjoy a larger house, that's what they're looking for. And all we're looking for right now is to give the same enjoyment that those other people who live in this community with the Tara model have and the same look of the house that they have.

CHAIRMAN BASEHART: Okay. Are there any questions for members of the board?

All right.

MR. WICHINSKY: Question for staff.

Based upon the testimony of the applicant and the testimony of the residents, has the staff's recommendation changed or it remains as in the staff report?

MS. CAI: It remains.

MR. MacGILLIS: There are letters. Some of the people are here. But just, there were fourteen letters we received. All of them strongly opposed the variance.

They wanted to keep the community the way it was sold to them. They're concerned the granting of this variance would create a zero lot line type community.

All these letters are part of the file. But the main thing is they're strongly opposed to granting any variance that would deviate from the original approval that they were sold.

MR. PUZZITIELLO: But they all deal with side yard setbacks?

MR. MacGILLIS: No. They talk about lot coverage.

In the things, they talk about the lot coverage and -- they just talk about lot coverage.

CHAIRMAN BASEHART: Sir, we've closed the public hearing.

Okay. Any questions from members of the board? Any discussion?

(No response.)

CHAIRMAN BASEHART: Then I guess we're ready for a motion.

MR. MacGILLIS: You may want to, when you go through them, go through them one at a time.

CHAIRMAN BASEHART: Yeah. That's right. We're going to have to do these one at a time.

MR. PUZZITIELLO: I make a motion for item number four, B of A 99-00052 for approval, as with the staff comments.

CHAIRMAN BASEHART: Based on the staff recommendations?

MR. PUZZITIELLO: Staff recommendations.

CHAIRMAN BASEHART: Okay. We have a motion by Mr. Puzzitiello. Do we have a second?

MR. MISROCH: Second.

CHAIRMAN BASEHART: We have a second by Mr. Misroch. Any discussion?

What I'd like to say, I'm going to support the motion, and I'd like to explain. First of all, I agree with the staff report and staff recommendation. But two other reasons, if you look at the floor plan that -- do you have your floor plan?

First of all, you know, I think the issue here is that we're talking about, in this case, less than half of one percent. And, in the other cases, all less than two percent. But the issue is, I think if you take a look at that plan, the areas where the increase or where there would be a reduction in coverage if that was required, are

all within the envelope that's already created by the building.

So it doesn't -- it doesn't extend the structure out to have a greater impact on appearance or functionally on surrounding properties and the same in the back part.

It's within the envelope that would be permitted by the code.

The issue of the buildings being closer than people want from the property line is not a relevant factor here because they all meet the setback requirements.

The other issue -- and I'm familiar with it because I deal with the code all the time. This level of coverage -- in fact, substantially greater level of coverage, is permitted by the code administratively. The code -- and, as Mr. Lelonek said, that was done in another phase of this same development. But the code says the maximum coverage is forty percent. However, you can be administratively approved for up to forty-four percent or a ten percent increase simply by providing some justification and asking for that as a part of your original site plan approval. I don't know if that code provision was in effect at the time the original site plan approval for this phase was approved or whether it was just something that the developer at the time didn't request, but those are administratively done. There's no public notice. There's no hearing. It's simply a request that happens every time -- or all the time, and it's routinely approved.

So, for those reasons, I'm going to support this motion. Those reasons in addition to the provision -- the recommendation and the justification that the staff provided.

That being said, anybody else have any comments?

MR. JACOBS: Yes, I have some. I'm going to oppose the variance. I think that the -- you're perfectly correct in terms of the technical side variance. But what I think this is a situation where you have a community which has a certain look and feel to it. And, apparently, there's a standard model Tara house. And what they have done is they have taken smaller lots and put this standard model Tara house on the lot rather than putting one of the other models on.

While this is perfectly permissible under the code, I think that, since the matter comes up on a request for a variance and the board has a right to reject the variance, that this might be in the best interest of the community.

I think that it's -- well, it's -- while it's perfectly permissible for the developer to maximize his lot coverage and build a more expensive house, I'm not sure that that's necessarily in the public interest in this type of community.

And I would be opposed to granting the variance.

CHAIRMAN BASEHART: Okay. Any other comments?  
Okay.

MS. CARDONE: Just a couple of comments. I agree with Mr. Jacobs very much so. And I don't feel that it's a hardship on the builder because there were lots all next to the lots that you've pointed out that apparently have sold because you've built out. So homes were built on lots that size that did conform, and they were sold to folks so that you did make the money.

My only concern is for the homeowners. If we don't

grant this and you take away some of the architectural detail, will you hurt the community and the folks who already live there because they're going to get a house this size one way or another. If it's missing the front porch or some attractive columns, will it hurt your community in the look of the homes?

And that's really the only reason that I can see, giving you this, is because I don't want to hurt the homeowners so that they get stuck with four homes in that community that are large homes that aren't very attractive homes.

CHAIRMAN BASEHART: Okay.

Any other comments?

MR. SHRADER: Could we respond to that?

CHAIRMAN BASEHART: No. The public hearing is closed.

Okay. I guess we're ready for a vote.

Since we know we're going to have at least one objector, why don't we do a roll call.

MS. MOODY: The 99-052?

CHAIRMAN BASEHART: Yes.

MS. MOODY: Mr. Joseph Jacobs?

MR. JACOBS: Opposed.

MS. MOODY: Ms. Nancy Cardone?

MS. CARDONE: Approve.

MS. MOODY: Mr. Raymond Puzzitiello?

MR. PUZZITIELLO: Yes.

MS. MOODY: Mr. Glenn Wichinsky?

MR. WICHINSKY: Yes.

MS. MOODY: Mr. Stanley Misroch?

MR. MISROCH: Approve.

MS. MOODY: And Mr. Bob Basehart?

CHAIRMAN BASEHART: Approve.

Then the variance was approved five to one.

Next item would be B of A 99-00053.

Is there a motion?

MR. PUZZITIELLO: Make a motion to approve B of A 99-00053 with the staff --

CHAIRMAN BASEHART: Same comments and same reasons?

Okay. We have a motion by Mr. Puzzitiello.

Do we have a second?

MR. MISROCH: Second.

CHAIRMAN BASEHART: A second by Mr. Misroch.

Any further discussion?

(No response.)

CHAIRMAN BASEHART: Okay. All -- I think the votes will probably be the same, but I don't know. Let's just -- all those in favor, indicate by saying aye?

(Panel indicates aye, except Mr. Jacobs.)

CHAIRMAN BASEHART: Opposed?

MR. JACOBS: No.

CHAIRMAN BASEHART: So the motion passes five to one.

Next is B of A 99-00054.

MR. PUZZITIELLO: Motion to approve.

CHAIRMAN BASEHART: motion by Mr. Puzzitiello.

We have a second?

MR. MISROCH: Second by Mr. Misroch.

All those in favor, indicate by saying aye.

(Panel indicates aye, except Mr. Jacobs.)

CHAIRMAN BASEHART: Opposed?

MR. JACOBS: No.

CHAIRMAN BASEHART: Motion carries five to one.

Next item is B of A 99-00055.

MR. PUZZITIELLO: Motion to approve.

CHAIRMAN BASEHART: Motion by Mr. Puzzitiello.

MR. MISROCH: Second.

CHAIRMAN BASEHART: Second by Mr. Misroch.

All those in favor of the motion, indicate by saying aye.

(Panel indicates aye, except Mr. Jacobs.)

CHAIRMAN BASEHART: Opposed?

MR. JACOBS: No.

CHAIRMAN BASEHART: Motion carries five to one.

B of A 99-56 and 57 were approved on consent.

So the last item is B of A 99-058.

MR. PUZZITIELLO: Motion to approve.

CHAIRMAN BASEHART: Motion by Mr. Puzzitiello.

MR. MISROCH: Second.

CHAIRMAN BASEHART: Second by Mr. Misroch.

All those in favor of the motion, indicate by saying aye.

(Panel indicates aye, except Mr. Jacobs.)

CHAIRMAN BASEHART: Opposed?

MR. JACOBS: No.

CHAIRMAN BASEHART: Motion carries five to one.

MR. LELONEK: Thank you very much. Have a good morning.

CHAIRMAN BASEHART: That concludes the regular agenda. I guess the last item on the agenda would be to go over the attendance chart.

Why don't we wait just a minute to allow the people in the audience to leave the room.

Okay. For the June meeting, we had three absences: Mr. Jacobs whose absence was based on business reasons;

Mr. Wichinsky, same reason; and same, Ray Puzzitiello.

So I guess what we need to do is vote whether to grant these as excused absences.

Everyone unanimously agrees?

(Panel indicates aye.)

CHAIRMAN BASEHART: Okay.

So we'll record these as excused absences for business purposes.

Other than that, do we have anything else we need to discuss? Do we need to wait in the room until they clear the parking lot?

I guess we're ready for -- do we have a motion for adjournment?

MR. JACOBS: So moved.

MR. MISROCH: Second.

CHAIRMAN BASEHART: Motion by Mr. Cohen (sic). Second by Mr. Misroch. All those in favor?

(Panel indicates aye.)

CHAIRMAN BASEHART: Opposed?

(No response.)

Meeting's over.

(Thereupon, the proceedings were concluded at 10:04

o'clock a.m.)

## C E R T I F I C A T E

THE STATE OF FLORIDA)  
COUNTY OF PALM BEACH)

I, RACHELE LYNN CIBULA, Notary Public, State of  
Florida at Large,

DO HEREBY CERTIFY that the foregoing Proceedings were  
taken before me at the time and place stated herein; that the  
court reporter administered unto the witnesses their oath to  
testify the truth, the whole truth, and nothing but the truth;  
that they were there and then orally examined and testified as  
herein set forth; and that this transcript of said proceedings,  
numbered 1 through 44 inclusive, constitutes a true and correct  
transcript of said hearing.

I FURTHER CERTIFY that I am neither related to nor  
employed by any counsel or party to the cause pending, nor  
interested in the event thereof.

IN WITNESS WHEREOF, I have hereunto affixed my hand  
and official seal this \_\_\_\_\_ day of May, 1999.

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RACHELE L. CIBULA, NOTARY PUBLIC