

1 MINUTES OF THE
2
3
4 APRIL 20, 2000
5
6 BOARD OF ADJUSTMENT MEETING
7

8 APPEARANCES:
9 BY BOARD MEMBERS
10 Nancy Cardone
11 Glenn Wichinsky
12 Chairman Robert Basehart
13 Raymond Puzzitiello
14 Joseph Jacob
15 Stanley Misroch
16

17
18 APPEARANCES BY
19 STAFF:
20 David Cuffe
21 Laura Beebe
22 Jon MacGillis
23 Joyce Cai
24 Alan Seaman
25 Brent Church
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I N D E X

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1 CHAIRMAN BASEHART: I'd like to welcome
2 everybody to the April 20, 2000, Board of
3 Adjustment meeting.
4 First order of business on the agenda will be
5 roll call.
6 MS. MOODY: Ms. Nancy Cardone?
7 MS. CARDONE: Yes.
8 MS. MOODY: Mr. Joseph Jacobs?
9 MR. JACOBS: Here.
10 MS. MOODY: Ms. Chelle Konyk.
11 MS. KONYK: Here.
12 MS. MOODY: Mr. Raymond Puzzitiello?
13 MR. PUZZITIELLO: Here.
14 MS. MOODY: Mr. Glenn Wichinsky?
15 MR. WICHINSKY: Here.
16 MS. MOODY: Mr. Stanley Misroch?
17 MR. MISROCH: Here.
18 MS. MOODY: And Mr. Bob Basehart?
19 MR. BASEHART: Here.
20 CHAIRMAN BASEHART: We have a quorum.
21 Okay. The second item will be proof of
22 publication. And I have that here. And does
23 anybody want to make a motion to accept the
24 proof into the record?
25 MR. JACOBS: So moved.
26 CHAIRMAN BASEHART: Moved by Mr. Jacobs.
27 MS. KONYK: Second.
28 CHAIRMAN BASEHART: Second by Ms. Konyk.
29 All those in favor?
30 (Panel indicates aye.)
31 CHAIRMAN BASEHART: Opposed?
32 (No response.)
33 CHAIRMAN BASEHART: Next item is remarks of
34 the chairman of the board.
35 What I'd like to do, for those of you that may
36 not be familiar with the procedures for this
37 board, we break the agenda down into two
38 sections. The first section is what we call
39 the consent agenda. The consent agenda is made
40 up of items that staff has recommended approval
41 of. And if there are recommended conditions of
42 approval, the applicant has been made aware of
43 them and agreed with them. And where there's
44 been no indication that there is opposition to
45 the application from the public, those items,
46 if they remain on the consent agenda, are not
47 required to make presentations. There's no
48 discussion. The board -- if all the members of
49 the board feel comfortable with the staff
50 report and recommendations, simply approve the
51 matter and the staff report becomes part of the
52 record.
53 If there are any members of the public that
54 have come to speak on or to oppose any of the
55 items that are listed on the consent agenda,
56 when we bring that item up, make that be known
57 to the board; and the item will be pulled from
58 the consent agenda and we'll have a full public
59 hearing.
60 The second part of the agenda are the
61 nonconsent items. And those are items where
62 the staff is recommending denial or there's

1 been indication from the public that there is
2 opposition. So those items will automatically
3 have a full public hearing; and the applicant
4 will be required to make a presentation, make
5 the board familiar with the applicant's
6 feelings why the item -- why their application
7 meets the criteria they need to justify the
8 variance. And the public will have an
9 opportunity to present their opinions as well.
10 Other than that, I don't have any -- oh, one
11 other comment. Of course, today is our annual
12 workshop meeting, and I think everybody's aware
13 of that. So following the regular meeting,
14 we'll reconvene and have our workshop.
15 Jon, do you have any idea -- some of the
16 members were asking how long the workshop might
17 take.
18 MR. MacGILLIS: Half an hour.
19 CHAIRMAN BASEHART: About a half hour or so.
20 Okay.
21 Just one other comment. There is item -- and I
22 think I have to abstain from participating in
23 item number three of the agenda. It's on the
24 consent agenda. It's BofA 2000016. Although,
25 I had nothing to do with this application, I do
26 have a business relationship with the applicant
27 and do a lot of their zoning work. So,
28 probably, I need to stay out of any discussion
29 or voting on that one, and I'll fill out the
30 conflict form.
31 Okay. Other than that, any other member of the
32 board have anything they'd like to say?
33 (No response.)
34 CHAIRMAN BASEHART: Okay. We'll move on to the
35 next item, which is the approval of the
36 minutes. I don't recall having gotten any
37 minutes this month.
38 MS. MOODY: You didn't. You didn't. They
39 weren't ready.
40 CHAIRMAN BASEHART: Why don't we just postpone
41 the approval of the minutes for the March
42 meeting for the next agenda.
43 Remarks of the zoning director?
44 MR. MacGILLIS: No comment.
45 CHAIRMAN BASEHART: Well, moving right along
46 then.
47 I believe -- are there any changes to the
48 agenda?
49 MR. MacGILLIS: No.
50 CHAIRMAN BASEHART: Okay. It appears that
51 everything is on the consent agenda. Let's
52 just go through them one at a time.
53 First item is Board of Adjustment time
54 extension 2000014, John P. And Lisa A.
55 Stauffer.
56 Are the applicant's here?
57 MS. STAUFFER: (Indicates.)
58 CHAIRMAN BASEHART: Okay. Staff has
59 recommended approval. There are two
60 conditions. Do you agree with those?
61 MS. STAUFFER: Yes. I understand it's a year
62 extension on both dates.

1 CHAIRMAN BASEHART: Is there any member of the
2 public that's here to speak on this item?
3 (No response.)
4 CHAIRMAN BASEHART: Seeing none, any member of
5 the board?
6 (No response.)
7 CHAIRMAN BASEHART: Okay. That will remain on
8 consent.
9 BofA 2000015, Samuel Resendiz and Francisca
10 Santana. This is -- is the applicant here?
11 MS. SANTANA: Yes.
12 CHAIRMAN BASEHART: The staff has recommended
13 approval subject to three conditions. Are you
14 familiar with them?
15 MR. MacGILLIS: Come up to the mic so we have
16 your voice that you're agreeing to the
17 conditions.
18 MS. SANTANA: Yes, I am agreeing to the
19 conditions.
20 CHAIRMAN BASEHART: You're Ms. Santana?
21 MS. SANTANA: Yes.
22 CHAIRMAN BASEHART: Was there any letters of
23 opposition?
24 MR. MacGILLIS: There was just two letters that
25 Alan received requesting clarification, which
26 he may have them, and they weren't opposed to
27 it.
28 CHAIRMAN BASEHART: Any member of the public
29 here to speak in opposition of this item?
30 (No response.)
31 CHAIRMAN BASEHART: Seeing none, any member of
32 the board want to have full discussion on this?
33 (No response.)
34 CHAIRMAN BASEHART: Okay. This item will
35 remain on consent as well.
36

37
38 STAFF RECOMMENDATIONS

39
40 APPROVAL WITH CONDITIONS, based upon the
41 following application of the standards
42 enumerated in Article 5, Section 5.7.E. of the
43 Palm Beach County Unified Land Development Code
44 (ULDC), which a petitioner must meet before the
45 Board of Adjustment may authorize a variance.
46

47 ANALYSIS OF ARTICLE 5, SECTION 5.7.E
48 VARIANCE STANDARDS

49
50 1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST
51 THAT ARE PECULIAR TO THE PARCEL OF LAND,
52 BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE
53 TO OTHER PARCELS OF LAND, STRUCTURES OR
54 BUILDINGS IN THE SAME DISTRICT:
55

56 Yes. This is a conforming lot, the original
57 residence, built in 1956, has nonconforming
58 setbacks. The rear setback required in 1956
59 was 10 feet. However, under the current ULDC,
60 the required rear setback is 15 feet.
61 Redesigning the new addition to meet current
62 rear setbacks would require an awkward

1 architectural connection and circulation flow
 2 in the house to the existing residence. The
 3 addition will provide a new kitchen for the
 4 residence and is proposed in the location of
 5 the current solid roof screen enclosure.
 6

7 **2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE**
 8 **THE RESULT OF ACTIONS OF THE APPLICANT:**
 9

10 No. The applicant purchased the home in
 11 November, 1997, and was unaware that the
 12 previous owner had erected the utility shed,
 13 screen enclosure, and carport without the
 14 proper building permits. A notice of violation
 15 was issued by the code enforcement division,
 16 C9907080018, for constructing a utility shed,
 17 screen enclosure, and carport without the
 18 proper permits and inspections. The applicant
 19 was heard before the code enforcement special
 20 master on December 1, 1999, and was granted
 21 until May 28, 2000 to correct the violations
 22 on-site or pay a fine of seventy-five dollars
 23 per day. Upon receiving the notice of
 24 violation, the applicant immediately applied
 25 for building permits and was advised that the
 26 structures did not meet the required setbacks
 27 and that variances would be needed. The
 28 applicant has made a good faith effort to abide
 29 by the regulations, correct the violations
 30 on-site, and reduce any negative impacts on
 31 adjacent properties. The applicant is
 32 attempting to correct encroachments created by
 33 a previous owner while at the same time improve
 34 the overall living space by relocating the
 35 existing screen enclosure and adding a new
 36 kitchen.
 37

38 **3. GRANTING THE VARIANCE SHALL CONFER UPON**
 39 **THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY**
 40 **THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER**
 41 **PARCELS OR LAND, BUILDINGS OR STRUCTURES, IN**
 42 **THE SAME DISTRICT:**
 43

44 No. Granting the variance shall not confer
 45 special privileges upon the applicant. Many
 46 other homes in the area have utility sheds and
 47 carports, which are minimal accessory
 48 structures allowed within 5 feet of side and
 49 rear property lines. If the variances are
 50 granted, the applicant will have to obtain
 51 permits and inspections. This will ensure the
 52 structures comply with building codes and are
 53 safe for habitation.
 54

55 **4. A LITERAL INTERPRETATION AND ENFORCEMENT OF**
 56 **THE TERMS AND PROVISIONS OF THIS CODE WILL**
 57 **DEPRIVE THE APPLICANT OF RIGHTS COMMONLY**
 58 **ENJOYED BY OTHER PARCELS OF LAND IN THE SAME**
 59 **DISTRICT, AND WOULD WORK AN UNNECESSARY AND**
 60 **UNDUE HARDSHIP:**
 61

62 Yes. A literal interpretation of the

1 provisions of the ULDC would create an undue
2 hardship on the applicant. The applicant would
3 be required to remove the existing shed, screen
4 enclosure and carport at considerable expense
5 and would deprive the applicant of the use of
6 such structures that are commonly built and
7 enjoyed by other surrounding property owners.
8 The granting of the variances will ensure
9 permits and inspections are secured by the
10 property owner and the code enforcement fines
11 accruing on the property are finalized.
12

13 5. THE APPROVAL OF VARIANCE IS THE MINIMUM
14 VARIANCE THAT WILL ALLOW A REASONABLE USE OF
15 THE PARCEL OF LAND, BUILDING OR STRUCTURE:
16

17 Yes. Approval of the variance is the minimum
18 variance that will allow a reasonable use of
19 the parcel. The floor plan of the existing
20 residence indicates the applicant is proposing
21 to relocate the new kitchen addition and
22 relocated screen enclosure to the logical
23 access points and flow patterns of the house.
24 Redesigning the new room addition to meet
25 current rear setbacks and connect to the
26 residence would create an awkward architectural
27 connection and floor plan flow. The utility
28 shed and the connected carport could not be
29 moved to another location on-site to avoid the
30 need for the requested variance.
31

32 6. GRANT OF THE VARIANCE WILL BE CONSISTENT
33 WITH THE PURPOSES, GOALS, OBJECTIVES AND
34 POLICIES OF THE COMPREHENSIVE PLAN AND THIS
35 CODE:
36

37 Yes. Granting of the variance will be
38 consistent with the intent of the ULDC and
39 comprehensive plan. Setbacks are established
40 to provide for the health, safety, and welfare
41 of the citizens, and to allow air and light to
42 penetrate and circulate. The existing
43 structures meet the needs of the applicant and
44 provide a standard of living to which the
45 applicant has become accustomed. The
46 structures provide a reasonable use of the lot.
47 An existing fence on the applicant's west and
48 north property lines buffers the setback
49 encroachments from the adjacent residences.
50

51 7. THE GRANT OF THE VARIANCE WILL BE
52 INJURIOUS TO THE AREA INVOLVED OR OTHERWISE
53 DETRIMENTAL TO THE PUBLIC WELFARE:
54

55 No. Granting of the variance will not be
56 injurious to the area involved or otherwise
57 detrimental to the public welfare. The
58 structures have been existing for over ten
59 years without complaints from adjacent property
60 owners. The property owner was cited only
61 after he made application to the county for the
62 new room addition and was told that the

1 existing shed, carport and screen enclosure had
 2 not received permits or inspections. The
 3 proposed room addition and the relocation of
 4 the solid roof screen enclosure will encroach
 5 the rear setback no more than the previous
 6 location of the solid roof screen enclosure.
 7 The adjacent resident to the west is buffered
 8 by an existing fence and is approximately
 9 twenty-five feet from the applicant's property
 10 line.

11
 12 ENGINEERING COMMENTS

13
 14 No comment (ENG)

15
 16 ZONING CONDITIONS

17
 18 1. By July 29, 2000, the property owner
 19 shall present to the building division with a
 20 copy of the Board of Adjustment result letter
 21 and copy of the site plan, Exhibit 9, presented
 22 to the board and apply for building permits for
 23 a solid roof screen enclosure, shed, carport
 24 and room addition. (DATE:MONITORING-BLDG
 25 PERMIT)

26
 27 2. By October 29, 2000, the property owner
 28 shall receive the building permits for a solid
 29 roof screen enclosure, shed, carport and room
 30 addition. (DATE:MONITORING-BLDG PERMIT)

31
 32 3. All future site improvements shall be
 33 developed in accordance with Exhibit 9
 34 presented to the Board of Adjustment at the
 35 April 20, 2000, hearing. (ONGOING)

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 46 CHAIRMAN BASEHART: Okay. Next item, BofA
 47 2000016. I don't see the applicant. Oh, there
 48 he is. Okay.

49 MS. KONYK: Do you want me to take over?

50 CHAIRMAN BASEHART: Yeah. Why don't you
 51 handle this.

52 MS. KONYK: Your name for the record?

53 MR. KELGAN: My name is John Kelgan (phonetic)
 54 with Marathon Ashland Petroleum.

55 MS. KONYK: The staff has recommended 8
 56 conditions.

57 Do you understand and agree with those
 58 conditions?

59 MR. KELGAN: Yes, we do.

60 MS. KONYK: Is there any letters?

61 MR. MacGILLIS: One person was objecting. We
 62 received a letter from Robert Hessa at 3955

1 Edwards Avenue. He's definitely opposed to
2 this. He's concerned with the existing
3 condition of the station and drinking,
4 loitering, prostitution, spillover lighting,
5 beer cans and trash not being picked up. I
6 shudder to think of what will happen if they're
7 allowed to enlarge this station.
8 There was a second one who had no objections.
9 But a -- why don't you explain this.
10 MS. CAI: Same person. I have a resident -- I
11 think he's probably -- his name is Robert Hessy
12 and he owns the property to the north. And he
13 came to see me to oppose at first because he
14 considered the existing problems on the -- that
15 gas station site. And, later on, we worked
16 with the owner and the agent; and they came up
17 with a solution to put up a chain fence because
18 he won't have a fence to block the kids to
19 climb over to his property. However, that
20 chain fence was not supported by Lake Worth
21 corridor study because they said they may, in
22 the future, to propose a cross access. In
23 addition, there is an existing chain fence
24 along the station site. So -- and I just
25 talked to the client, and they said that they'd
26 like to work out with them a time to review and
27 also resume the process, so...
28 MS. KONYK: Is the letter writer present? No?
29 MS. CAI: We called him yesterday and left a
30 message with his home and office but we have
31 not gotten an answer yet.
32 MS. KONYK: Is there any other member of the
33 public here to speak in opposition of this
34 item?
35 So you don't feel that this letter writer
36 warrants pulling it from the consent?
37 MR. MacGILLIS: I'm kind of concerned because
38 this all came up at the last minute. We spoke
39 to Helen LaValley. She's the project manager
40 working on the rezoning -- not the rezoning --
41 the conditional use for this project. She also
42 sits on the corridor team.
43 We did have a problem putting a fence up along
44 the east property line. But, apparently,
45 there's going to be a cross access between
46 those two properties. Part of the Lake Worth
47 corridor, they try to create these second tier
48 roads running along there to not have all these
49 access points coming on to Lake Worth Road. So
50 at this point --
51 MS. KONYK: There's communication between the
52 applicant and the letter writer? And you got
53 the feeling that they're working this out
54 between themselves. Obviously, he's not here.
55 I would not see any reason to pull this from
56 the consent.
57 MS. KONYK: Does any member of the board feel
58 this item warrants a full hearing?
59 (No response.)
60 MS. KONYK: Seeing none, this item BofA
61 2000016 will remain on consent.
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STAFF RECOMMENDATIONS

APPROVAL WITH CONDITIONS, 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, that are not applicable to the other parcels of land, structures or buildings in the same district.

The subject property is located at the northeast intersection of Lake Worth Road and Kirk Road in the CG/SE, southerly lot, and RM, northerly lot, zoning districts. Petition number 75-104. The subject property is 0.97 acres in size combined by 2 contiguous lots, one abutting Lake Worth Road, southerly lot, 0.48 acres, and another abutting Kirk Road, northerly lot, 0.46 acres. It is a legal nonconforming parcel with legal nonconforming structures, which include a 1,614 square foot convenience store and a canopy for 4 gas pumps on the southerly lot. And a 2 story church building on the north northerly lot. These existing structures will be demolished in order for the site to be redeveloped to comply with the current code requirements. The new 3,3062 square foot convenience store will be situated on the north part of the property while the canopy with the expanded facility, 6 gas pumps, on the south part. The north part of the site, northerly lot, originally supported a church building constructed in 1958, which is not allowed the usage of automobile service station under the current zoning designation. Therefore, the applicant will apply for rezoning the property from RM-Multifamily Residential to CG-General Commercial. The applicant will also apply for approval of conditional use "A" from the board of county commissioners to allow a convenience store with gasoline sales.

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

No. Special circumstances and conditions are

1 not the result of actions of the applicant.

2
3 The applicant is proposing to redevelop the
4 legal nonconforming property to support an
5 upgraded convenience store with gas sales. The
6 site currently supports an existing 1,614
7 square foot convenience store, a gas pump
8 island and a church building. The site
9 configuration and location, right-of-way
10 taking, on-site retention and site design
11 restrictions result in the need for the
12 requested variances as they relate to the
13 redevelopment of the parcel. Since the
14 property is located at a major intersection
15 which has ingress/egress on to 2 major
16 right-of-ways, this location consequently
17 encourages cross site circulation, therefore,
18 limits the alternative site design to avoid
19 variances. In addition, granting of the
20 variances will be consistent with the intent of
21 the code in terms of encouraging redevelopment
22 and reducing existing nonconformities on this
23 site. Furthermore, the site is located along
24 Lake Worth Road commercial corridor, the
25 requested variances will allow the site to be
26 redeveloped to provide a safer, more appealing
27 and functional service station for the
28 neighboring residents and users of the site.

29
30 3. GRANTING THE VARIANCE SHALL CONFER UPON
31 THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY
32 THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER
33 PARCELS OR LAND, BUILDINGS OR STRUCTURES, IN
34 THE SAME DISTRICT:

35
36 No. Granting the variance shall not confer
37 upon the applicant special privileges denied by
38 the comprehensive plan and this code to other
39 parcels of land, buildings or structures, in
40 the same district.

41
42 The Board of Adjustment has granted variances
43 to property owners for variances under similar
44 circumstances. In order for lots that are
45 legal nonconforming in terms of acreage,
46 property dimensions or structures to be
47 developed or redeveloped, the property owners
48 occasionally need variance relief. In this
49 particular situation, the applicant has limited
50 the variance requests to the minimum while
51 upgrading the site to conform to the current
52 ULDC requirement to as great extent possible.

53
54 As previously indicated, the applicant is
55 proposing to make improvements that will
56 increase the functional quality and appearance
57 of the site and the surrounding area. The
58 proposed upgraded landscaping as related by
59 staff will meet with the intent of the code
60 which will buffer the site there from the
61 right-of-way and the adjacent property.
62

1 4. A LITERAL INTERPRETATION AND ENFORCEMENT OF
2 THE TERMS AND PROVISIONS OF THIS CODE WILL
3 DEPRIVE THE APPLICANT OF RIGHTS COMMONLY
4 ENJOYED BY OTHER PARCELS OF LAND IN THE SAME
5 DISTRICT, AND WOULD WORK AN UNNECESSARY AND
6 UNDUE HARDSHIP:
7

8 Yes. A literal interpretation and enforcement
9 of the terms and provisions of this code will
10 deprive the applicant of rights commonly
11 enjoyed by other parcels of land in the same
12 district and would work an unnecessary and
13 undue hardship.
14

15 Literal interpretation and enforcement of the
16 ULDC would require the applicant to reduce the
17 site area that has been dedicated to on-site
18 circulation, accesses, stacking and bypass
19 zones, et cetera, to accommodate additional
20 16.6 foot right-of-way landscape buffer, nine
21 more parking spaces and 3.22 foot of side
22 street setback from the proposed convenience
23 store along Kirk Road. In other words, by
24 increasing the right-of-way landscape buffer
25 width along Lake Worth Road and Kirk Road, and
26 number of off street parking spaces to conform
27 with the ULDC's current site development
28 regulations would impede the circulation of
29 traffic through and around the queuing spaces,
30 parking situations, and loading bays and access
31 to the site. As previously indicated, the
32 reduction in the required off street parking
33 spaces will still meet with general intent of
34 the code considering that the customers
35 typically purchase store items and gas while
36 using the queuing or fueling spaces.
37 Therefore, the required reduction in 7 parking
38 spaces will not impede the overall function of
39 the site. The reduction in the RW buffer width
40 and the building setback of the convenience
41 store, 3.22 foot, will be mitigated by the
42 upgraded landscaping material recommended by
43 staff, which will also meet with the general
44 intent of the code.
45

46 5. THE APPROVAL OF VARIANCE IS THE MINIMUM
47 VARIANCE THAT WILL ALLOW A REASONABLE USE OF
48 THE PARCEL OF LAND, BUILDING OR STRUCTURE:
49

50 Yes. The approval of the variance is the
51 minimum variance that will allow a reasonable
52 use of the parcel of land, building or
53 structure.
54

55 The nonconforming lot area of the subject site
56 limits the design options. As stated in the
57 applicant's justification in this application,
58 there are no alternative design options
59 available to the applicant that would eliminate
60 the need for the variances. In addition, the
61 right-of-way dedication, the corner lot
62 situation and on-site retention all contribute

1 to the reduction in the buildable lot size and
2 the need for the requested variances. Granting
3 the requested variances will recognize the
4 owner has dedicated land area for the expanded
5 intersection and will reduce many existing
6 nonconformities.
7

8 As previously mentioned, the subject parcel
9 supports structures that are no longer
10 functional to the applicant's needs. The
11 requested variances would allow the applicant
12 to develop the site with 6 gas pumps and a
13 3,3062 square foot convenience store, which
14 will increase the functional quality and
15 appearance of the site and the surrounding
16 area. The requested variances will benefit the
17 owner and the county by reducing several
18 nonconformities to make the site more
19 functional and aesthetically pleasing to the
20 surrounding residents and customers.
21

22 **6. GRANT OF THE VARIANCE WILL BE CONSISTENT**
23 **WITH THE PURPOSES, GOALS, OBJECTIVES AND**
24 **POLICIES OF THE COMPREHENSIVE PLAN AND THIS**
25 **CODE:**
26

27 Yes. Grant of the variance will be consistent
28 with the purposes, goals, objectives and
29 policies of the comprehensive plan and this
30 code.
31

32 The intent of the comprehensive plan is to
33 encourage commercial areas. The subject
34 property is within the Lake Worth Road
35 commercial corridor, in which the multifaceted
36 neighborhood revitalization is desired. The
37 proposed redevelopment of the site presents an
38 opportunity to help achieve the overall vision
39 for the corridor. Therefore, it is consistent
40 with the Lake Worth Road corridor study. In
41 addition, the proposed redevelopment will bring
42 the site closer to the conformities with the
43 current ULDC requirements than the existing
44 situation. The setback, landscape buffer,
45 queuing and off-street parking variances are
46 all minimal and will be either mitigated or
47 satisfied by improved landscaping or the
48 utilizing of stacking lanes.
49

50 **7. THE GRANT OF THE VARIANCE WILL BE**
51 **INJURIOUS TO THE AREA INVOLVED OR OTHERWISE**
52 **DETRIMENTAL TO THE PUBLIC WELFARE:**
53

54 No. The grant of the variance will not be
55 injurious to the area involved or otherwise
56 detrimental to the public welfare.
57

58 The proposed variances will greatly enhance the
59 overall appearance and functionality for the
60 customers. Several existing legal
61 nonconformities will be eliminated through the
62 redevelopment of the site. The county

1 engineering department has requested the
2 property owner to provide additional
3 right-of-way dedication along both major roads
4 to accommodate for an expanded intersection.
5 The expanded intersection will greatly improve
6 the traffic congestion in the area for
7 vehicles. Therefore, the benefits of approving
8 this minimal variance will affect not only the
9 users of the site but those individuals
10 traveling along Lake Worth Road and Kirk Road.

11
12 ENGINEERING COMMENTS

13
14 Please be advised that the base building lines
15 for the subject property will be established at
16 54.5 feet east from the right-of-way center
17 line of Kirk Road, 76.0 feet north from the
18 right-of-way center line of Lake Worth Road,
19 and following the interior line of a forty foot
20 corner clip, (i.e., safe sight distance
21 triangle), correcting the base building lines
22 at the intersection. Since the site plan
23 submitted for the variance request and the
24 requested variances themselves do not take
25 these base building lines into account, it does
26 not appear that the proposed project layout
27 will be feasible even if all variances are
28 granted as stated. It is recommended that the
29 applicant contact land development division
30 regarding the base building line waivers
31 necessary to delineate the developable area of
32 the property, in order that a revised site plan
33 may be prepared and request for variances may
34 be made based upon the actual development
35 limitations of the site. (ENG)

36
37 ZONING CONDITIONS

38
39 1. By November 20, 2000, the subject property
40 owners shall provide the building division with
41 a copy of the Board of Adjustment result letter
42 and a copy of the certified site plan by DRC,
43 simultaneously with the building permit
44 application. (BLDG PERMIT:BLDG)

45
46 2. Prior to issuance of final certificate of
47 occupancy, the applicant shall upgrade the
48 landscape material in the right-of-way buffer
49 along Lake Worth Road as follows:
50 (CO/LANDSCAPE)

- 51
52 1. One 14 foot high native shade tree
53 on both sides of the ingress egress;
54 2. One group of 5 booted sable palms
55 planted thirty feet measured from the center of
56 the required shade tree;
57 3. Continuous thirty-six inch high
58 native hedge planted twenty-four inches on
59 center;
60 4. Earth berm to run the length of
61 the buffer.
62

- 1 3. Prior to issuance of final certificate of
2 occupancy, the applicant shall upgrade the
3 landscape material in the right-of-way buffer
4 along Kirk Road as follows: (CO/LANDSCAPE)
5
6 1. Booted sabal palms planted every
7 10 feet on center between the north end of the
8 dumpster and the north edge of the driveway;
9 2. 14 foot high native shade trees
10 planted every thirty feet on center on the
11 south of the driveway;
12 3. Booted sabal palms planted every
13 15 feet on center on the south of the driveway;
14 4. Continuous thirty-six inch native
15 hedge planted twenty-four inches on center.
16
17 4. Prior to issuance of final certificate of
18 occupancy, the applicant shall upgrade the
19 landscape material in the right-of-way buffer
20 at the southwest corner, where the chord of
21 forty foot radius occurs, as follows:
22 (CO/LANDSCAPE)
23
24 1. Three Royal palms planted every
25 15 feet on center;
26 2. Continuous thirty-six inch high
27 native hedge planted twenty-four inches on
28 center.
29
30 5. All landscape material shall be maintained
31 in accordance with Article 7.3.H. (ONGOING:CODE
32 ENF/Landscape)
33
34 6. By August 18, 2000, the applicant shall
35 apply to the Board of County Commissioners to
36 request for rezoning and a conditional "A" use
37 to allow a convenience store with gas sales on
38 the subject property. (DATE:MONITORING-Zoning)
39
40 7. Prior to DRC certification, the applicant
41 shall ensure that the BofA conditions are shown
42 on the site plan, Exhibit 23, B.A. 2000016.
43 (DRC:Zoning)
44
45 8. The applicant shall construct the site
46 consistent with the site plan, Exhibit 23, in
47 the B.A. 2000-016 file. Any future
48 modifications to the site layout shall ensure
49 compliance with BCC conditions, code
50 requirements and be consistent with the general
51 intent of the Board of Adjustment approval.
52 (ZONING-ONGOING)
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1 CHAIRMAN BASEHART: Okay. Next item is BofA
 2 2000017, Eileen Balaguera and Steven Rondos.
 3 Applicant here?
 4 MS. BALAGUERA: (Indicates.)
 5 CHAIRMAN BASEHART: Okay. The staff is
 6 recommending approval subject to three
 7 conditions.
 8 Do you understand those conditions?
 9 MS. BALAGUERA: Yes.
 10 CHAIRMAN BASEHART: Do you agree with them?
 11 MS. BALAGUERA: Yes.
 12 CHAIRMAN BASEHART: And your name for the
 13 record?
 14 MS. BALAGUERA: Eileen Balaguera.
 15 CHAIRMAN BASEHART: Any letters, Jon?
 16 MR. MacGILLIS: There was -- Brent Church was
 17 the project manager this was just one call and
 18 he addressed it.
 19 CHAIRMAN BASEHART: They were objecting to
 20 Brent?
 21 MR. MacGILLIS: They didn't say.
 22 CHAIRMAN BASEHART: Any member of the public
 23 here to speak on this matter.
 24 (No response.)
 25 CHAIRMAN BASEHART: Seeing none, any board
 26 member feel the item needs to be pulled?
 27 MS. KONYK: Nope.
 28 CHAIRMAN BASEHART: Okay. It will remain on
 29 consent.
 30
 31
 32

33 STAFF RECOMMENDATIONS

34
 35 APPROVAL WITH CONDITIONS, based upon the
 36 following application of the standards
 37 enumerated in Article 5, Section 5.7.E. of the
 38 Palm Beach County Unified Land Development Code
 39 (ULDC), which a petitioner must meet before the
 40 Board of Adjustment may authorize a variance.
 41

42 ANALYSIS OF ARTICLE 5, SECTION 5.7.E
 43 VARIANCE STANDARDS

44
 45 1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST
 46 THAT ARE PECULIAR TO THE PARCEL OF LAND,
 47 BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE
 48 TO OTHER PARCELS OF LAND, STRUCTURES OR
 49 BUILDINGS IN THE SAME DISTRICT:
 50

51
 52
 53 Yes. This 0.23 acre lot is located within the
 54 Capella PUD, petition number 96-044 and is
 55 typical in size to other lots within the PUD
 56 development. The lot supports a typical-size
 57 dwelling, covered patio and pool. The lot
 58 supports a 4,417 square foot, one-story,
 59 single-family dwelling constructed in 1998,
 60 B98027198. The house has a 22.6 foot front
 61 setback and 15.5 foot rear setback along the
 62 south, rear edge. The rectangular pool was

1 constructed in 1999, B99018169, as well as the
 2 screen enclosure, B99032340. The pool and
 3 screen enclosure currently comply with required
 4 setbacks. The single-family dwelling and
 5 enclosure were not designed to accommodate a
 6 wheelchair pool lift. In order to allow the
 7 applicant's son access to the pool, the screen
 8 enclosure must be expanded to the north by 5.5
 9 feet. This will allow additional area for the
 10 wheelchair to maneuver the pool/deck. The
 11 existing enclosure will be expanded to provide
 12 7 more feet between the pool and screen
 13 enclosure. What is unique in this situation is
 14 that the home, swimming pool and screen
 15 enclosure comply with the typical GL Homes
 16 layout. The applicant has a unique situation
 17 relative to her son that warrants special
 18 consideration. The applicant is requesting
 19 approval to modify the existing screen
 20 enclosure to accommodate her unique hardship of
 21 accommodating a pool lift for the wheel chair.
 22 The house, pool and screen enclosure were all
 23 permitted by GL Homes.

24
 25 **2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE**
 26 **THE RESULT OF ACTIONS OF THE APPLICANT:**

27
 28 No. The applicant purchased a home, based on a
 29 typical sales model, taking into consideration
 30 the needs of her wheelchair-confined son.
 31 However, the applicant would like to install a
 32 wheelchair lift. The swimming pool and spa's
 33 typical orientation provide limited space to
 34 locate an aquatic lift and maneuver a
 35 wheelchair on their perimeter. Typical homes,
 36 such as the applicant's, are not designed to
 37 address the needs of a wheelchair-confined
 38 person. The applicant is requesting the
 39 minimum variance possible to accommodate the
 40 needs of her son. The variance will allow the
 41 existing screen enclosure along the west side
 42 to be expanded to provide additional area
 43 around the pool for the wheelchair. The minor
 44 encroachment can be mitigated with a hedge. In
 45 addition, there is currently a vacant lot to
 46 the north, so a future owner would be aware of
 47 the encroachment.

48
 49 **3. GRANTING THE VARIANCE SHALL CONFER UPON**
 50 **THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY**
 51 **THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER**
 52 **PARCELS OR LAND, BUILDINGS OR STRUCTURES, IN**
 53 **THE SAME DISTRICT:**

54
 55 No. The applicant purchased a home which is
 56 typical of the homes in the surrounding area.
 57 However, her family is unable to derive the
 58 same level of enjoyment from their swimming
 59 pool and spa because of access and safety
 60 concerns posed when allowing her son to take
 61 part in aquatics. This variance will allow the
 62 screen-roof, screen enclosure to be extended to

1 provide additional room for the placement of an
 2 aquatic lift and added room to maneuver her
 3 son's wheelchair safely.
 4

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

11
 12 Yes. Typical residential site planning and
 13 architectural design of the pool do not take
 14 into consideration the needs and requirements
 15 of the handicapped individual. The design and
 16 placement of site improvements, eg., dwellings,
 17 swimming pools, spas, et cetera, although
 18 satisfying code requirements, do not typically
 19 take into account the special needs of a
 20 wheelchair-confined person. The applicant
 21 would like to install a wheelchair lift along
 22 the north side, shallow end, of the pool. This
 23 will allow her son to take advantage of the
 24 pool for therapy.
 25

26 5. THE APPROVAL OF VARIANCE IS THE MINIMUM
 27 VARIANCE THAT WILL ALLOW A REASONABLE USE OF
 28 THE PARCEL OF LAND, BUILDING OR STRUCTURE:
 29

30 Yes. The setback variance is minor in nature
 31 and can be mitigated with a hedge. If granted,
 32 the applicant's son will derive the same level
 33 of enjoyment from their swimming pool and spa
 34 as others in the surrounding area. The
 35 applicant's request would provide needed room
 36 to accommodate her wheelchair-confined son,
 37 while satisfying the objectives of the side
 38 yard setback code requirement. Staff is
 39 recommending a solid thirty-six-inch native
 40 hedge along the screen enclosure where the
 41 encroachment will occur. This will mitigate
 42 the encroachment on the vacant lot to the
 43 north.
 44

45 6. GRANT OF THE VARIANCE WILL BE CONSISTENT
 46 WITH THE PURPOSES, GOALS, OBJECTIVES AND
 47 POLICIES OF THE COMPREHENSIVE PLAN AND THIS
 48 CODE:
 49

50 Yes. The purpose of the side yard setback, as
 51 previously stated, is to ensure light can
 52 access windows; to provide service access; to
 53 allow for landscaping to buffer noise. The
 54 applicant's request would have limited impact
 55 on the objective of this code section, since
 56 the proposed modifications/extension of the
 57 existing screen-roof, screen enclosure would be
 58 translucent and will affect only a small
 59 portion of the required side yard. The purpose
 60 of the code is to enhance the quality of life
 61 for residents and property owners through
 62 setting comprehensive and consistent standards

1 and procedures for the review and approval of
 2 proposed development in unincorporated Palm
 3 Beach County. However, the code does allow for
 4 exceptions, hence, the creation of the Board of
 5 Adjustment to review and rule on requests for
 6 variances from the established code. The
 7 applicant's variance request is valid, since it
 8 requests the board to consider her son's
 9 special needs and provide relief from the
 10 required side yard setback.

11
 12 7. THE GRANT OF THE VARIANCE WILL BE
 13 INJURIOUS TO THE AREA INVOLVED OR OTHERWISE
 14 DETRIMENTAL TO THE PUBLIC WELFARE:

15
 16 No. The granting of the requested variance
 17 will provide the applicant's son use of the
 18 swimming pool and spa, similar to that provided
 19 to residents and property owners who have pools
 20 and spas designed to comply with both building
 21 and land development codes. The variance
 22 request is minor in nature and will not be
 23 injurious to the area involved. Staff
 24 conducted a site inspection to the applicant's
 25 property to determine the possible effect the
 26 proposed variance would have on the adjacent
 27 properties. Staff concluded with the
 28 installation of a thirty-six-inch native hedge
 29 along the north property line, where the screen
 30 enclosure encroachment occurs, the effect of
 31 the proposed variance would be mitigated.
 32 Furthermore, the adjacent property to the north
 33 is currently vacant and the developer and/or
 34 future owner will be able to take this
 35 encroachment into consideration when designing
 36 their single-family dwelling.

37
 38 ENGINEERING COMMENTS

39
 40 No Comment (ENG)

41 ZONING CONDITIONS

- 42
 43 1. By September 18, 2000, the applicant
 44 shall apply for a building permit to revise the
 45 existing screen enclosure, B99-03240.
 46 (DATE:MONITORING-Bldg Permit)
 47
 48 2. By November 18, 2000, the applicant shall
 49 obtain a building permit for the screen
 50 enclosure expansion. (DATE:MONITORING-BLDG)
 51
 52 3. Prior to the issuance of a certificate of
 53 occupancy on the screen enclosure expansion,
 54 the applicant shall install a thirty-six inch
 55 high native hedge along 20 feet on the north
 56 side of the screen enclosure encroaching the
 57 side setback. (CLO-INSP)

58
 59
 60
 61
 62 STAFF RECOMMENDATIONS

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APPROVAL WITH CONDITIONS, 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. The subject lot is located at 5392 Grand Palm Circle, approximately four hundred feet north of Via Del Ray and one thousand two hundred feet west of Military Trail, within the Tropical Lakes PUD, in the RS zoning district, petition 92-26. The future land use designation is MR-5, medium residential 5. The Tropical Lakes PUD was approved by the Board of County Commission in 1992. The revised master plan, overall subdivision plan, was certified by development review committee on February 22, 1995. The PUD supports 27.55 acres of land, one hundred thirty-six dwelling units of which 52 surround a 4.30 acre lake located at the center of the PUD. The lake is surrounded by a 20 foot lake maintenance easement, which abuts the rear of the applicant's property. The subject lot is within the overall density is 5 units/acre.

The subject .13-acre lot, number thirty-nine, situated at about mid point along Grand Palm Circle's north loop is generally rectangular in configuration. It is a conforming lot with the following 4 dimensions; 50.91 feet on the north/front side, 50.30 feet on the south/rear side, 108.15 feet and 111.94 feet respectively, on the west and east side interiors. The lot currently supports an existing 1,886 square-foot, single-story, zero-lot line, single-family residence, a 454-square-foot 2-car garage, and an approximately 13 by 34 foot decorative tile over concrete open patio. Abutting to the rear/south property line is a 20-foot lake maintenance easement, which was required along the 4.30-acre lake beyond.

The ULDC recognizes a solid-roof, screen enclosure as an addition to the zero-lot line, single-family dwelling and, therefore, must meet the setbacks of the single-family dwelling of 10 feet. However, the applicant is subject to section 6.5.G.6 of the code, which allows a twenty-five percent reduction in the minimum required setback when the subject property

1 fronts on passive, open space with a minimum
 2 width of 50 feet. In this particular case, the
 3 subject property abuts existing lake and lake
 4 maintenance easement along the rear property
 5 line, thus creating an applicable circumstance
 6 for the twenty-five percent reduction
 7 exception. Thus, for the proposed screen
 8 enclosure with solid roof, the required rear
 9 setback is reduced to 7.5 feet. The applicant
 10 is requesting a rear setback of 0 feet
 11 resulting in a variance of 7.5 feet.
 12

13 **2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE**
 14 **THE RESULT OF ACTIONS OF THE APPLICANT:**
 15

16 No. The existing rear patio does not, in its
 17 current shape or location, violate any zoning
 18 setback requirements. The introduction of a
 19 solid-roof screen enclosure over the patio
 20 requires the meeting of a 7.5 foot rear
 21 setback. As stated by the applicant in this
 22 justification, we have a permit for screen
 23 walls and roof, but were unaware of a different
 24 setback for a solid aluminum roof. The
 25 proposed structure will allow the applicant the
 26 opportunity to improve the amenities of higher
 27 living quality and enjoyment of the outdoor
 28 activities and protection from the rain, sun
 29 and mosquitoes.
 30

31 The fact that there is a 20-foot lake
 32 maintenance easement adjacent to and outside
 33 the applicant's rear property line and beyond
 34 is an existing 4.3-acre lake which acts as a
 35 natural barrier to the homes across the lake,
 36 the applicant's request to construct a solid
 37 roof enclosure 0 feet from the subject rear
 38 property line is warranted and, if granted,
 39 will satisfy the rear setback requirement.
 40

41 **3. GRANTING THE VARIANCE SHALL CONFER UPON**
 42 **THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY**
 43 **THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER**
 44 **PARCELS OR LAND, BUILDINGS OR STRUCTURES, IN**
 45 **THE SAME DISTRICT:**
 46

47 No. Granting the variance will not confer
 48 special privileges upon the property owner.
 49 The proposed structure will enclose the current
 50 approximate 13 feet by thirty-six feet open
 51 patio and will be consistent with other
 52 enclosures within the neighborhood. The
 53 setback encroachment will not create a negative
 54 impact to the existing lake. And, in addition,
 55 several of the surrounding neighbors also have
 56 solid roof screened patios. The addition will
 57 be in conformance with the character of the
 58 neighborhood. There are neighbors to the east
 59 and west and south across the lake that have
 60 solid or screen roof screen patios that are
 61 similar in size to the proposed structure.
 62

1 4. A LITERAL INTERPRETATION AND ENFORCEMENT OF
2 THE TERMS AND PROVISIONS OF THIS CODE WILL
3 DEPRIVE THE APPLICANT OF RIGHTS COMMONLY
4 ENJOYED BY OTHER PARCELS OF LAND IN THE SAME
5 DISTRICT, AND WOULD WORK AN UNNECESSARY AND
6 UNDUE HARDSHIP:
7

8 Yes. A literal interpretation and enforcement
9 of the terms and provisions of this code will
10 deprive the applicant of rights commonly
11 enjoyed by other parcels of land in the same
12 district and would work an unnecessary and
13 undue hardship. The intent of the rear setback
14 is to ensure a minimum separation between
15 adjacent property owners, privacy and
16 compatibility of uses. The requested rear
17 setback encroachment of 7.5 feet will not
18 impede the adjacent property which is the 20
19 foot lake maintenance easement and lake. It
20 will not have an impact on adjoining
21 residential properties within the development.
22 The proposed 0 feet rear setback variance will
23 be compatible with the residential land use and
24 will be consistent with the character of the
25 neighborhood. Other surrounding properties in
26 the area have screen enclosures.
27

28 5. THE APPROVAL OF VARIANCE IS THE MINIMUM
29 VARIANCE THAT WILL ALLOW A REASONABLE USE OF
30 THE PARCEL OF LAND, BUILDING OR STRUCTURE:
31

32 Yes. As previously mentioned, the existing
33 maintenance easement and lake along the rear
34 property line serve as a natural barrier
35 between the property and the nearest structure
36 of the rear of the property, which is more than
37 one hundred seventy feet away. The proposed
38 structure will meet interior side setback
39 requirements. Therefore, the request is the
40 minimum variance that will allow for this
41 addition to occur and is considered to be a
42 reasonable expansion to the dwelling. Many
43 similar screen enclosures exist in the
44 neighborhood. Furthermore, the existing lake
45 mitigates any negative impact associated with
46 this variance on the area.
47

48 6. GRANT OF THE VARIANCE WILL BE CONSISTENT
49 WITH THE PURPOSES, GOALS, OBJECTIVES AND
50 POLICIES OF THE COMPREHENSIVE PLAN AND THIS
51 CODE:
52

53 Yes. Granting the variance will be consistent
54 with the purposes, goals, objectives and
55 policies of the comprehensive plan of the ULDC.
56 The comprehensive plan encourages the
57 development of residential communities that
58 provides the property owner with a complete
59 living environment. The requested addition is
60 a typical accessory structure in Florida. The
61 ULDC rear setback of 0 feet can be satisfied
62 since there is a 20-foot lake maintenance

1 easement and 4.3 acre lake adjacent to the rear
2 of the yard.

3
4 7. THE GRANT OF THE VARIANCE WILL BE
5 INJURIOUS TO THE AREA INVOLVED OR OTHERWISE
6 DETRIMENTAL TO THE PUBLIC WELFARE:
7

8 No. The variance, if granted, will be
9 consistent with other enclosures in the
10 neighborhood. The proposed screen enclosure
11 with solid roof will meet the side setback
12 requirements and, therefore, will not infringe
13 on neighbors' property due to the setback and
14 alignment. As previously indicated, the
15 proposed solid roof screened patio abuts an
16 existing 20-foot lake maintenance easement and
17 4.3 acre lake. The passive open space provides
18 a separation from the adjacent structures as
19 required by the code. Therefore, the variance
20 will not have any adverse impacts on the
21 neighboring residential properties.
22

23 ENGINEERING COMMENTS
24

25
26 Note that the roof overhang of the proposed
27 enclosure must not encroach the lake
28 maintenance easement, i.e., extend beyond the
29 existing rear property line of the subject lot.
30 (ENG)
31

32 ZONING CONDITIONS
33

34 1. By May 21, 2000, the property owner shall
35 provide the building division with a copy of
36 the Board of Adjustment result letter and copy
37 of the site plan, Exhibit 9, presented to the
38 board, to revise B99024621 previously issued
39 for a screen roof screen enclosure. (BLDG
40 PERMIT:BLDG)
41

42 2. By May 21, 2000, the B of A zoning staff
43 shall ensure the certified site plan has a
44 notation on lot thirty-nine indicating the
45 approved variance with conditions.
46 (DATE:MONITORING-ZONING-BA).
47

48 3. The variance is limited to the rear setback
49 for the proposed thirty-six foot by 13 foot
50 screen enclosure with solid roof to be 0 feet
51 from the rear property line as shown on the
52 B.A. 2000-018, site plan Exhibit 9. 9ON-GOING)
53
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1
2 Next item, BofA 2000018, Tiki Aluminum
3 Products, Inc., agent for Lawrence and Norma
4 Brunswick.
5 Is the applicant here?
6 MR. WADE: Yes.
7 CHAIRMAN BASEHART: Okay staff has recommended
8 approval subject to three conditions do you
9 agree with those conditions?
10 MR. WADE: I do.
11 CHAIRMAN BASEHART: Your name for the record?
12 MR. WADE: Kenneth A. Wade.
13 CHAIRMAN BASEHART: Okay. Any letters?
14 MR. SEAMAN: Yes. There were five letters.
15 And of the five, one was disapproval; but they
16 didn't say why.
17 CHAIRMAN BASEHART: Any member of the public
18 here to speak on this item?
19 (No response.)
20 CHAIRMAN BASEHART: Seeing none, any member of
21 the board?
22 (No response.)
23 CHAIRMAN BASEHART: Okay. This item will
24 remain on consent.

25
26 STAFF RECOMMENDATIONS

27
28 APPROVAL WITH CONDITIONS, based upon the
29 following application of the standards
30 enumerated in Article 5, Section 5.7.E. of the
31 Palm Beach County Unified Land Development Code
32 (ULDC), which a petitioner must meet before the
33 Board of Adjustment may authorize a variance.

34
35 ANALYSIS OF ARTICLE 5, SECTION 5.7.E
36 VARIANCE STANDARDS

37
38 1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST
39 THAT ARE PECULIAR TO THE PARCEL OF LAND,
40 BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE
41 TO OTHER PARCELS OF LAND, STRUCTURES OR
42 BUILDINGS IN THE SAME DISTRICT:

43
44 Yes. Special conditions and circumstances
45 exist that are peculiar to the parcel of land,
46 building or structure, that are not applicable
47 to the other parcels of land, structures or
48 buildings in the same district.

49
50 The subject property is located at the
51 northeast intersection of Lake Worth Road and
52 Kirk Road in the CG/SE, southerly lot, and RM,
53 northerly lot, zoning districts. Petition
54 number 75-104. The subject property is 0.97
55 acres in size combined by 2 contiguous lots,
56 one abutting Lake Worth Road, southerly lot,
57 0.48 acres, and another abutting Kirk Road,
58 northerly lot, 0.46 acres. It is a legal
59 nonconforming parcel with legal nonconforming
60 structures, which include a 1,614 square foot
61 convenience store and a canopy for 4 gas pumps
62 on the southerly lot. And a 2 story church

1 building on the north northerly lot. These
 2 existing structures will be demolished in order
 3 for the site to be redeveloped to comply with
 4 the current code requirements. The new 3,3062
 5 square foot convenience store will be situated
 6 on the north part of the property while the
 7 canopy with the expanded facility, 6 gas pumps,
 8 on the south part. The north part of the site,
 9 northerly lot, originally supported a church
 10 building constructed in 1958, which is not
 11 allowed the usage of automobile service station
 12 under the current zoning designation.
 13 Therefore, the applicant will apply for
 14 rezoning the property from RM-Multifamily
 15 Residential to CG-General Commercial. The
 16 applicant will also apply for approval of
 17 conditional use "A" from the board of county
 18 commissioners to allow a convenience store with
 19 gasoline sales.

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

24 No. Special circumstances and conditions are
 25 not the result of actions of the applicant.

27 The applicant is proposing to redevelop the
 28 legal nonconforming property to support an
 29 upgraded convenience store with gas sales. The
 30 site currently supports an existing 1,614
 31 square foot convenience store, a gas pump
 32 island and a church building. The site
 33 configuration and location, right-of-way
 34 taking, on-site retention and site design
 35 restrictions result in the need for the
 36 requested variances as they relate to the
 37 redevelopment of the parcel. Since the
 38 property is located at a major intersection
 39 which has ingress/egress on to 2 major
 40 right-of-ways, this location consequently
 41 encourages cross site circulation, therefore,
 42 limits the alternative site design to avoid
 43 variances. In addition, granting of the
 44 variances will be consistent with the intent of
 45 the code in terms of encouraging redevelopment
 46 and reducing existing nonconformities on this
 47 site. Furthermore, the site is located along
 48 Lake Worth Road commercial corridor, the
 49 requested variances will allow the site to be
 50 redeveloped to provide a safer, more appealing
 51 and functional service station for the
 52 neighboring residents and users of the site.

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

60 No. Granting the variance shall not confer
 61 upon the applicant special privileges denied by
 62 the comprehensive plan and this code to other

1 parcels of land, buildings or structures, in
2 the same district.

3
4 The Board of Adjustment has granted variances
5 to property owners for variances under similar
6 circumstances. In order for lots that are
7 legal nonconforming in terms of acreage,
8 property dimensions or structures to be
9 developed or redeveloped, the property owners
10 occasionally need variance relief. In this
11 particular situation, the applicant has limited
12 the variance requests to the minimum while
13 upgrading the site to conform to the current
14 ULDC requirement to as great extent possible.

15
16 As previously indicated, the applicant is
17 proposing to make improvements that will
18 increase the functional quality and appearance
19 of the site and the surrounding area. The
20 proposed upgraded landscaping as related by
21 staff will meet with the intent of the code
22 which will buffer the site there from the
23 right-of-way and the adjacent property.

24
25 **4. A LITERAL INTERPRETATION AND ENFORCEMENT OF**
26 **THE TERMS AND PROVISIONS OF THIS CODE WILL**
27 **DEPRIVE THE APPLICANT OF RIGHTS COMMONLY**
28 **ENJOYED BY OTHER PARCELS OF LAND IN THE SAME**
29 **DISTRICT, AND WOULD WORK AN UNNECESSARY AND**
30 **UNDUE HARDSHIP:**

31
32 Yes. A literal interpretation and enforcement
33 of the terms and provisions of this code will
34 deprive the applicant of rights commonly
35 enjoyed by other parcels of land in the same
36 district and would work an unnecessary and
37 undue hardship.

38
39 Literal interpretation and enforcement of the
40 ULDC would require the applicant to reduce the
41 site area that has been dedicated to on-site
42 circulation, accesses, stacking and bypass
43 zones, et cetera, to accommodate additional
44 16.6 foot right-of-way landscape buffer, nine
45 more parking spaces and 3.22 foot of side
46 street setback from the proposed convenience
47 store along Kirk Road. In other words, by
48 increasing the right-of-way landscape buffer
49 width along Lake Worth Road and Kirk Road, and
50 number of off street parking spaces to conform
51 with the ULDC's current site development
52 regulations would impede the circulation of
53 traffic through and around the queuing spaces,
54 parking situations, and loading bays and access
55 to the site. As previously indicated, the
56 reduction in the required off street parking
57 spaces will still meet with general intent of
58 the code considering that the customers
59 typically purchase store items and gas while
60 using the queuing or fueling spaces.
61 Therefore, the required reduction in 7 parking
62 spaces will not impede the overall function of

1 the site. The reduction in the RW buffer width
2 and the building setback of the convenience
3 store, 3.22 foot, will be mitigated by the
4 upgraded landscaping material recommended by
5 staff, which will also meet with the general
6 intent of the code.
7

8 **5. THE APPROVAL OF VARIANCE IS THE MINIMUM**
9 **VARIANCE THAT WILL ALLOW A REASONABLE USE OF**
10 **THE PARCEL OF LAND, BUILDING OR STRUCTURE:**
11

12 Yes. The approval of the variance is the
13 minimum variance that will allow a reasonable
14 use of the parcel of land, building or
15 structure.
16

17 The nonconforming lot area of the subject site
18 limits the design options. As stated in the
19 applicant's justification in this application,
20 there are no alternative design options
21 available to the applicant that would eliminate
22 the need for the variances. In addition, the
23 right-of-way dedication, the corner lot
24 situation and on-site retention all contribute
25 to the reduction in the buildable lot size and
26 the need for the requested variances. Granting
27 the requested variances will recognize the
28 owner has dedicated land area for the expanded
29 intersection and will reduce many existing
30 nonconformities.
31

32 As previously mentioned, the subject parcel
33 supports structures that are no longer
34 functional to the applicant's needs. The
35 requested variances would allow the applicant
36 to develop the site with 6 gas pumps and a
37 3,3062 square foot convenience store, which
38 will increase the functional quality and
39 appearance of the site and the surrounding
40 area. The requested variances will benefit the
41 owner and the county by reducing several
42 nonconformities to make the site more
43 functional and aesthetically pleasing to the
44 surrounding residents and customers.
45

46 **6. GRANT OF THE VARIANCE WILL BE CONSISTENT**
47 **WITH THE PURPOSES, GOALS, OBJECTIVES AND**
48 **POLICIES OF THE COMPREHENSIVE PLAN AND THIS**
49 **CODE:**
50

51 Yes. Grant of the variance will be consistent
52 with the purposes, goals, objectives and
53 policies of the comprehensive plan and this
54 code.
55

56 The intent of the comprehensive plan is to
57 encourage commercial areas. The subject
58 property is within the Lake Worth Road
59 commercial corridor, in which the multifaceted
60 neighborhood revitalization is desired. The
61 proposed redevelopment of the site presents an
62 opportunity to help achieve the overall vision

1 for the corridor. Therefore, it is consistent
 2 with the Lake Worth Road corridor study. In
 3 addition, the proposed redevelopment will bring
 4 the site closer to the conformities with the
 5 current ULDC requirements than the existing
 6 situation. The setback, landscape buffer,
 7 queuing and off-street parking variances are
 8 all minimal and will be either mitigated or
 9 satisfied by improved landscaping or the
 10 utilizing of stacking lanes.

11
 12 **7. THE GRANT OF THE VARIANCE WILL BE**
 13 **INJURIOUS TO THE AREA INVOLVED OR OTHERWISE**
 14 **DETRIMENTAL TO THE PUBLIC WELFARE:**

15
 16 No. The grant of the variance will not be
 17 injurious to the area involved or otherwise
 18 detrimental to the public welfare.

19
 20 The proposed variances will greatly enhance the
 21 overall appearance and functionality for the
 22 customers. Several existing legal
 23 nonconformities will be eliminated through the
 24 redevelopment of the site. The county
 25 engineering department has requested the
 26 property owner to provide additional
 27 right-of-way dedication along both major roads
 28 to accommodate for an expanded intersection.
 29 The expanded intersection will greatly improve
 30 the traffic congestion in the area for
 31 vehicles. Therefore, the benefits of approving
 32 this minimal variance will affect not only the
 33 users of the site but those individuals
 34 traveling along Lake Worth Road and Kirk Road.

35
 36 **ENGINEERING COMMENTS**

37
 38 Please be advised that the base building lines
 39 for the subject property will be established at
 40 54.5 feet east from the right-of-way center
 41 line of Kirk Road, 76.0 feet north from the
 42 right-of-way center line of Lake Worth Road,
 43 and following the interior line of a forty foot
 44 corner clip, (i.e., safe sight distance
 45 triangle), correcting the base building lines
 46 at the intersection. Since the site plan
 47 submitted for the variance request and the
 48 requested variances themselves do not take
 49 these base building lines into account, it does
 50 not appear that the proposed project layout
 51 will be feasible even if all variances are
 52 granted as stated. It is recommended that the
 53 applicant contact land development division
 54 regarding the base building line waivers
 55 necessary to delineate the developable area of
 56 the property, in order that a revised site plan
 57 may be prepared and request for variances may
 58 be made based upon the actual development
 59 limitations of the site. (ENG)

60
 61 **ZONING CONDITIONS**
 62

- 1 1. By November 20, 2000, the subject property
2 owners shall provide the building division with
3 a copy of the Board of Adjustment result letter
4 and a copy of the certified site plan by DRC,
5 simultaneously with the building permit
6 application. (BLDG PERMIT:BLDG)
7
- 8 2. Prior to issuance of final certificate of
9 occupancy, the applicant shall upgrade the
10 landscape material in the right-of-way buffer
11 along Lake Worth Road as follows:
12 (CO/LANDSCAPE)
13
 - 14 1. One 14 foot high native shade tree
15 on both sides of the ingress egress;
 - 16 2. One group of 5 booted sable palms
17 planted thirty feet measured from the center of
18 the required shade tree;
 - 19 3. Continuous thirty-six inch high
20 native hedge planted twenty-four inches on
21 center;
 - 22 4. Earth berm to run the length of
23 the buffer.
24
- 25 3. Prior to issuance of final certificate of
26 occupancy, the applicant shall upgrade the
27 landscape material in the right-of-way buffer
28 along Kirk Road as follows: (CO/LANDSCAPE)
29
 - 30 1. Booted sabal palms planted every
31 10 feet on center between the north end of the
32 dumpster and the north edge of the driveway;
 - 33 2. 14 foot high native shade trees
34 planted every thirty feet on center on the
35 south of the driveway;
 - 36 3. Booted sabal palms planted every
37 15 feet on center on the south of the driveway;
 - 38 4. Continuous thirty-six inch native
39 hedge planted twenty-four inches on center.
40
- 41 4. Prior to issuance of final certificate of
42 occupancy, the applicant shall upgrade the
43 landscape material in the right-of-way buffer
44 at the southwest corner, where the chord of
45 forty foot radius occurs, as follows:
46 (CO/LANDSCAPE)
47
 - 48 1. Three Royal palms planted every
49 15 feet on center;
 - 50 2. Continuous thirty-six inch high
51 native hedge planted twenty-four inches on
52 center.
53
- 54 5. All landscape material shall be maintained
55 in accordance with Article 7.3.H. (ONGOING:CODE
56 ENF/Landscape)
57
- 58 6. By August 18, 2000, the applicant shall
59 apply to the Board of County Commissioners to
60 request for rezoning and a conditional "A" use
61 to allow a convenience store with gas sales on
62 the subject property. (DATE:MONITORING-Zoning)

1
2 7. Prior to DRC certification, the applicant
3 shall ensure that the BofA conditions are shown
4 on the site plan, Exhibit 23, B.A. 2000016.
5 (DRC:Zoning)
6
7 8. The applicant shall construct the site
8 consistent with the site plan, Exhibit 23, in
9 the B.A. 2000-016 file. Any future
10 modifications to the site layout shall ensure
11 compliance with BCC conditions, code
12 requirements and be consistent with the general
13 intent of the Board of Adjustment approval.
14 (ZONING-ONGOING)
15
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25 CHAIRMAN BASEHART: Next item, BofA 2000020,
26 Kilday and Associates, agent for Mazzoni Farms
27 and Mazzoni Revocable Trust.
28 Candy?
29 MS. ANDERSON: Candy Anderson, Kilday and
30 Associates.
31 CHAIRMAN BASEHART: Staff has recommended
32 approval subject to six conditions. Do you --
33 are you aware of those conditions?
34 MS. ANDERSON: Yes.
35 CHAIRMAN BASEHART: Do you agree with them?
36 MS. ANDERSON: Yes, I do.
37 CHAIRMAN BASEHART: Any letters?
38 MS. ANDERSON: And Jon has one modification.
39 MR. MacGILLIS: Yes, just minor changes, typo
40 changes, on page 77 of the conditions,
41 condition number three of the second line where
42 it refers to the location of the recreational
43 parcel and the five should be struck and
44 replaced with the word four.
45 CHAIRMAN BASEHART: Okay.
46 MR. MacGILLIS: And then on condition number
47 six, the second sentence -- the second and
48 third of the four neighborhood amenities.
49 Strike five and replace it with four.
50 And then on the next sentence, it should only
51 read, the fourth neighborhood amenity. In
52 other words take out the fifth.
53 This staff report was in here previously, so we
54 an amended. That's why some of these
55 things --
56 CHAIRMAN BASEHART: Okay.
57 MR. MacGILLIS: So it should just read the
58 fourth in that last sentence, the fourth
59 neighborhood amenity shall be installed prior
60 to the receipt of final certificate of
61 occupancy.
62 CHAIRMAN BASEHART: Okay. Do you agree with

1 the amended conditions?
 2 MS. ANDERSON: Yes, I do.
 3 CHAIRMAN BASEHART: Okay. Any letters?
 4 MR. MacGILLIS: There was one letter saying
 5 they didn't have a problem with it.
 6 CHAIRMAN BASEHART: Any member of the public
 7 here to speak on this matter?
 8 (No response.)
 9 CHAIRMAN BASEHART: Any member of the board
 10 want to pull this item?
 11 (No response.)
 12 CHAIRMAN BASEHART: Okay. It will remain on
 13 consent.
 14
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31 CHAIRMAN BASEHART: Next item is BofA 2000022
 32 Bill Frederick with Key Centers, Inc.
 33 Name for the record?
 34 MR. WOOLSEY: Mike Woolsey. And I'm agent for
 35 the -- and I've given Mary a revised agent
 36 agreement.
 37 CHAIRMAN BASEHART: Okay. Mr. Woolsey, the
 38 staff has recommended approval of this item
 39 with four conditions, are you familiar with
 40 those?
 41 MR. WOOLSEY: I read the conditions and am
 42 familiar with them and agree with them. Thank
 43 you.
 44 CHAIRMAN BASEHART: Is there any letters?
 45 MR. MacGILLIS: Two letters of opposition.
 46 Maria Romanelli, 4240 Fox View Court, Lake
 47 Worth. As an adjacent property owner, I feel
 48 that any reduction to required on-street
 49 parking could potentially interfere with my
 50 parking and may cause congestion with access.
 51 Although the parking is based on Palm Beach
 52 County building and zoning guidelines, it has
 53 come to our attention that our tenants have
 54 been having difficulty finding adequate
 55 parking.
 56 The second one is Joseph Kellen Bak, B-a-k, at
 57 6455 West 87th Place, Jupiter. Planning on
 58 building a summer home in the future and don't
 59 want anymore commercial businesses in the area.
 60 I tried to contact this one who -- lady that
 61 had the concern, but I couldn't get through on
 62 the number. So...

1 Staff doesn't feel -- it's on-site parking.
2 It's not really going to affect the adjacent
3 parcels. You can't park out on the right lane
4 anyway.
5 CHAIRMAN BASEHART: It more had to do with the
6 use than the variance?
7 MR. MacGILLIS: Right. And the use is already
8 approved on this location.
9 CHAIRMAN BASEHART: Okay. Is there any member
10 of the public here to speak on this item?
11 (No response.)
12 CHAIRMAN BASEHART: Seeing none, does any
13 member of the board feel this item should be
14 pulled?
15 (No response.)
16 CHAIRMAN BASEHART: Okay. This will remain on
17 consent agenda as well.
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27
28 And then the last item on the agenda will be
29 BofA time extension 2000023, Land Design South.
30 Is the applicant here?
31 MS. MORTON: Yes. Jennifer Morton with Land
32 Design South.
33 CHAIRMAN BASEHART: Okay. These conditions
34 are the original four conditions?
35 MS. MORTON: We added one more.
36 MR. MacGILLIS: Yeah. Number four was added.
37 And, actually, staff wanted to delete condition
38 number one.
39 CHAIRMAN BASEHART: Okay. So there will be
40 three conditions?
41 MR. MacGILLIS: Yes.
42 CHAIRMAN BASEHART: You don't have a problem
43 deleting a condition?
44 MS. MORTON: No, we don't. Thank you.
45 CHAIRMAN BASEHART: All right. You agree with
46 the other three?
47 MS. MORTON: Yes, we do.
48 CHAIRMAN BASEHART: Is there any member of the
49 public here to speak on this item?
50 (No response.)
51 CHAIRMAN BASEHART: Any board member want to
52 pull it?
53 (No response.)
54 CHAIRMAN BASEHART: It will remain on
55 consent.
56 Given --
57 MS. KONYK: I have a suggestion that we vote
58 on the item that you're recusing yourself from
59 first so there's no confusion about that.
60 CHAIRMAN BASEHART: Okay. Why don't we do
61 that.
62 MS. KONYK: So is someone prepared to make a

1 motion to the consent of BofA 2000016?
2 MR. PUZZITIELLO: So moved.
3 MS. KONYK: Motion by Mr. Puzzitiello.
4 MR. JACOBS: Second.
5 MS. KONYK: Second by Mr. Jacobs.
6 All those in favor?
7 (Panel indicates aye, with Mr. Basehart
8 abstaining.)
9 MS. KONYK: Motion carries unanimously.
10 CHAIRMAN BASEHART: Okay. And show me
11 abstaining.
12 MS. KONYK: With Mr. Basehart abstaining.
13 CHAIRMAN BASEHART: Okay. There's a general
14 --
15 MR. MILLIMA: This is 2000016, I oppose. This
16 is with Avid Engineering Corporation.
17 MS. KONYK: We gave you the opportunity to
18 oppose when we introduced the item.
19 MR. MILLIMA: I'm sorry. It went right by me.
20 MS. KONYK: Your name for the record?
21 MR. MILLIMA: Robert L. Millima.
22 MS. KONYK: What I'm being told by the county
23 attorney is that, if one of us that voted for
24 it wants to make a motion to reconsider it, we
25 can; or we can just let this matter be on the
26 consent as approved.
27 I'm the chairman. I can't do anything.
28 MS. CARDONE: I would make a motion to
29 reconsider.
30 MR. WICHINSKY: I'll second that.
31 MS. KONYK: Motion by Ms. Cardone. Second by
32 Mr. Wichinsky to reconsider BofA 2000016.
33 All those in favor?
34 (Panel indicates aye.)
35 MS. KONYK: Motion carries unanimously.
36 This item is now off the consent. So it will
37 become the first item on the regular agenda.
38 So you may have a seat.
39 MR. MILLIMA: Thank you.
40 CHAIRMAN BASEHART: Okay. Other than item
41 BofA 2000016 that's been removed and placed on
42 the regular agenda, so the balance of the items
43 2000014, 15, 17, 18, 20, 22 and 23 are on the
44 consent agenda. Do you want to make a motion
45 --
46 MS. KONYK: Yeah. I'll make a motion that the
47 items that Mr. Basehart just mentioned, two of
48 them being time extensions and the rest of them
49 being regular items, be approved with the staff
50 report becoming part of the record.
51 CHAIRMAN BASEHART: Motion by Ms. Konyk. Do
52 we have a second?
53 MR. PUZZITIELLO: Second.
54 MR. JACOBS: Second.
55 CHAIRMAN BASEHART: I think Mr. Puzzitiello
56 spoke up first.
57 CHAIRMAN BASEHART: We have a motion and a
58 second.
59 All those in favor, indicate by saying aye.
60 (Panel indicates aye.)
61 CHAIRMAN BASEHART: Opposed, saying no.
62 (No response.)

1 CHAIRMAN BASEHART: Show that the consent
2 agenda was unanimously approved.
3 Then there's one regular item which I guess I'm
4 supposed to leave the room; is that right?
5 MS. BEEBE: You don't have to leave the room.
6 MS. KONYK: You don't have to leave the room.
7 Just sit there and be quiet.
8 MS. KONYK: Item number BofA 2000016, just so
9 you know how the procedure will happen here,
10 the applicant will be introduced. The staff
11 will introduce the item. After the staff
12 introduces the item, the applicant will give
13 their presentation. Then we'll hear from
14 staff. At that point, we'll open the public
15 portion of the hearing. Then the board members
16 will have an opportunity to ask questions of
17 the applicant and of the -- whoever they feel
18 they need to ask questions of. The public
19 portion of the hearing will be closed. And
20 we'll vote.
21 So if the applicant will come forward and
22 introduce themselves for the record.
23 MS. BEEBE: You need to put them under oath.
24 MS. KONYK: Yeah. Anybody that's going to
25 speak on this item, we'll have you sworn in.
26 So if you are planning on saying something,
27 raise your right hand.
28 (Audience sworn by Court Reporter.)
29 MR. LINCOLN: My name is Scott Lincoln. I'm
30 the agent for the applicant. I'm with Avid
31 Engineering, the engineers of record for the
32 project. We're here to give this presentation.
33 MS. KONYK: Okay. We'd like to introduce this
34 item, and then we'll go --
35 MS. CAI: Avid Engineering, Inc., as agent for
36 BW Simpkins and Fletcher A. Sheriff, trustees
37 and Lake Worth Bible Church, Inc., to allow a
38 reduction in the required landscape buffer
39 along Lake Worth Road, a reduction in the
40 required landscape right-of-way buffer along
41 Kirk Road, a reduction in the required stacking
42 distance for gasoline pumps, a reduction in the
43 number of required off-street parking spaces
44 and a reduction in the required street side
45 setback from the proposed convenience store for
46 the proposed redevelopment of the convenience
47 store with gas sales. It's located at 3981
48 Lake Worth Road and 3958 Kirk Road, at
49 northeast intersection of Lake Worth Road and
50 Kirk Road in the CG/SE and RM zoning districts.
51 MS. KONYK: Applicant, will you make your
52 presentation.
53 MR. LINCOLN: Marathon Ashland Petroleum is the
54 current lessor of the site. They lease the
55 front portion of the property. Currently,
56 there's an existing convenience store with gas
57 pumps on the front of the property. They are
58 going to obtain the rear parcel shown to the
59 north here where there's a small church.
60 They're going to build a state-of-the-art new
61 convenience store, shown on this plan, which,
62 by certain code requirements, will require that

1 the building be pushed back a distance on the
2 property, will have a canopy with fueling
3 positions and wire going to make various
4 improvements to the site.
5 Now, the main reason that Marathon is here to
6 request the variances is due to the fact that
7 there will be some improvements done to this
8 intersection at Kirk Road and Lake Worth Road.
9 Based on those improvements, significant
10 right-of-way taking, as shown here in the gray
11 area, will encroach on the site and will cause
12 difficulty and hardship for the proposed
13 development. What we are proposing is a
14 variance. We are requesting a variance for
15 buffer along Kirk Road that would reduce the
16 buffer from fifteen feet for a portion of the
17 property right along this dumpster to three
18 point four nine feet. The remaining buffer
19 along Kirk Road would be reduced to five feet.
20 And, as you can see, the right-of-way taking is
21 pretty significant here at the corner, but we
22 expand into a buffer area of 19.5 feet, barely
23 below the required twenty-foot landscape
24 buffer.
25 Staff has indicated in their report that
26 they'll require significant planting to
27 mitigate this reduction in the buffer. And we
28 agree with the staff's conditions.
29 We also have a setback reduction of
30 approximately 3.22 feet on the side setback,
31 which, again, was caused due to the fourteen
32 and a half feet of right-of-way taking along
33 Kirk Road.
34 Additionally, we have a parking requirement of
35 seventeen spaces, and we are asking to reduce
36 this to eight spaces, and it's due to the
37 experience by the -- by my client Marathon
38 Ashland Petroleum that customers that come into
39 the site to fuel their cars generally park at
40 fueling positions and then walk into the store.
41 This is more of a neighborhood, commercial
42 convenience store. There will be a lot of
43 pedestrian traffic, and we don't feel that the
44 requirement of seventeen parking spaces will
45 meet the requirement for this type of store.
46 Additionally, we pointed out to staff that the
47 customer use area in the store is -- the store
48 being thirty three hundred and sixty-two square
49 feet, only sixty-two hundred-plus square feet
50 is customer use area. And the current code
51 requirement states that you need one parking
52 space per it two hundred square feet. That
53 would be close to eight to nine parking spaces.
54 We're proposing eight parking spaces in front
55 of the store, one handicapped space. And we
56 feel the remainder of the customers will
57 actually park at the fueling positions.
58 As for the opposition, we received a letter
59 from Robert Hessy, who's the neighbor along
60 this property boundary on the east. He
61 indicated that he had some problems with the
62 current site. We've talked to him in detail,

1 faxed him, Fedexed him the site plans. And his
2 biggest concern appears to be fencing, the
3 north and east property lines, which my client
4 will agree to do. But we'd like to work that
5 out during the rezoning process. And he's
6 worried about lighting. And I'm certain we're
7 going to be discussing that during the rezoning
8 as well. So being that we're not asking for
9 any variances along that property line, we feel
10 that we have satisfied Mr. Hessy and that that
11 should be brought up during the rezoning
12 petition. So we'd like to see the board vote
13 on the actual requirements for variances that
14 we are proposing.

15 MS. KONYK: Okay. Hear from the public now.
16 Step forward to the mic and give us your name
17 for the record.

18 MR. MILLIMA: Good morning ladies and
19 gentlemen, my name is Robert L. Millima. I
20 apologize for the inconvenience I may have
21 caused the board by not paying attention. I'm
22 a carpenter. I nail wood together for a
23 living, so this is my first time. Okay.

24 I strongly oppose any changes in the zoning
25 requirements for the two lots directly south of
26 me. I have lived in my present location for
27 twelve years. And it is a residential
28 neighborhood. Any changes that you might
29 consider in the zoning laws would only add to
30 the noise and congestion at the existing gas
31 station on Lake Worth Road. My home is
32 directly north to the Lake Worth Bible Church
33 on Kirk Road. The church is a quiet and serene
34 neighborhood. As you might imagine, the
35 thought of this church being replaced by a
36 twenty-four-hour gas station pumps and a mega
37 convenience store in a residential neighborhood
38 is inconceivable to me.

39 The petition before the zoning division is not
40 just asking for a change from a church to
41 another business, but it is even asking for
42 variances in required landscaping, required
43 off-street parking spaces and required street
44 setbacks and required stacking distance of
45 gasoline pumps on the north end of this
46 proposed project. I've owned this home for
47 twelve years, and I'm directly to the north of
48 this property. Currently, this property is a
49 small two-story, well-kept community church set
50 on a south side of a grassy area which might
51 have twenty cars parked there during church
52 services.

53 Although, I do not know the zoning of the
54 churches property, I know that my home and the
55 church face on Kirk Road, which is a
56 residential street. There are currently about
57 three church services a week which break up
58 about nine p.m.; and, during the day,
59 neighborhood children play on the church grass.
60 I'm a self-employed carpenter, I bought this
61 home twelve years ago with the intent and hope
62 of living in this home for the rest of my life.

1 My home is well-kept and nicely landscaped. I
2 have some great neighbors and there are lots of
3 kids and pets around. I'm an Army veteran and
4 I'm recovering from a heart attack that I had
5 two years ago at the age of forty-nine. I tell
6 you all this so that you see that there is a
7 human element who cares about this
8 neighborhood. And, although we are all aware
9 that Lake Worth Road is not far from us, it is
10 certainly not in my side yard, nor should it
11 be.
12 I also could not imagine what such a zoning
13 variance might do to my home's value and those
14 of my neighbors. And now this petition asks
15 that the current zoning laws be reduced even
16 further to bring gas pumps and twenty-four-hour
17 floodlights, if that is what this might allow,
18 to about fifteen feet from my bedroom.
19 Ladies and gentlemen, I strongly urge you to
20 deny this petition and keep Kirk Road a
21 residential neighborhood as it was intended.
22 Thank you for your time.
23 MS. KONYK: Thank you.
24 Any board member have any questions?
25 MR. JACOBS: I have a question. I have a
26 question of the applicant. When was the lease
27 acquired?
28 MS. KONYK: What does that have to do with
29 anything?
30 MR. LINCOLN: Is that a question to the
31 applicant?
32 MS. KONYK: Yes.
33 MR. JACOBS: Yes.
34 Let me rephrase the question. At the time you
35 acquired the lease, did you know there was
36 going to be a right-of-way taking?
37 MR. KELEHATH: Yes, sir, we did.
38 MR. JACOBS: So you acquired the lease knowing
39 there would be a right-of-way taking, and you
40 would have to apply for a variance?
41 MR. KELEHATH: Actually, the situation was that
42 we sought additional land for development there
43 to improve the aesthetics and functionality of
44 this site. And, during the process of
45 acquiring that, we found out at that time that
46 there would be a right-of-way taking imposed
47 upon us in order to develop the site. And,
48 from that point, we tried to determine if
49 there's any additional properties that could be
50 purchased for purposes of redevelopment, and
51 there are not any additional areas of
52 development.
53 MS. KONYK: The thing -- the whole issue here
54 is that the new facility will be much closer to
55 conformance with the code than the old
56 facility.
57 MR. KELEHATH: That's very correct. And I want
58 to just try to address some of Mr. Millima's
59 response in the sense that the area that's
60 directly behind him, as we propose, it would be
61 a dry detention area, fully fenced in, no
62 lighting, no parking, aesthetically improved,

1 additional landscaping, fencing between us and
2 his property. As far as the variances that
3 he's objecting to, we definitely look at those
4 in terms of everything that we currently have
5 to be would be substantially improved.
6 Right now we have no landscaping. We would
7 have landscaping. We would have restrictions
8 on our lighting. The parking would be detained
9 away from his property. But, in this
10 perspective, it would be much improvement.
11 MR. LINCOLN: I just want to mention a few
12 things about the plan itself. The current site
13 as it sits on Lake Worth Road is below the
14 requirements for the code in this area. There
15 is a Lake Worth corridor study that's been done
16 and has been prepared, which this will be --
17 this plan will be worked on with the rezoning
18 department here to meet those requirements for
19 that Lake Worth corridor study. There's going
20 to be improved access, improved circulation on
21 the property. The building is pretty run down
22 at this point. This new building will meet
23 current building codes. But all of these
24 issues are going to be resolved during the
25 petition, which is the rezoning.
26 Currently, the variances that we are requesting
27 are not impacting any of the neighboring
28 properties. There is no true impact beyond
29 code requirements to the north or to the east.
30 And, actually, what will be there is a
31 significant buffer for this pond area and the
32 buffering and the fencing.
33 MS. KONYK: Thanks.
34 Just for the record, I don't think we need a
35 full presentation by staff because staff's
36 recommending approval of this item and you are
37 supporting the variances that have been
38 requested.
39 For this gentleman, Mr. Millima, this is not a
40 zoning hearing. We're not hear to decide if
41 this use is appropriate for this site. That
42 would be something that would be taken up in
43 zoning. We're only here to decide whether or
44 not he can obtain the variances that he wants,
45 which are the limited parking -- you know, the
46 left -- 9 less parking spots than would be
47 normally required and a reduction in landscape
48 buffer. We're not going to decide whether or
49 not that property is used for the purpose that
50 they're wanting to use it for. And I think
51 that's probably the forum that you want to take
52 your complaint to.
53 MR. MILLIMA: I understand that. As a home
54 owner, I live right next to there. And I'm
55 sure there's a few homeowners here that
56 probably wouldn't want a gas station right next
57 door.
58 MS. KONYK: And we can't stop that. So we're
59 going to go ahead with the hearing. And the
60 public portion is actually closed.
61 MR. MILLIMA: Sure.
62 MS. KONYK: I just wanted to inform you that

1 we're not taking your -- we're not discounting
2 your concerns. We're just telling you that
3 this is not where they should be addressed.
4 MR. MILLIMA: I understand. And I'll show up
5 where they have to be.
6 MS. KONYK: Okay. Thank you.
7 Any member of the board prepared to make a
8 motion on this item?
9 MR. PUZZITIELLO: I'll make a motion that we
10 approve the BofA 2000016 for the variance that
11 has been requested --
12 MS. KONYK: The applicant has met the seven
13 criteria?
14 MR. PUZZITIELLO: There you go.
15 MS. KONYK: Do you want the staff report part
16 of the record?
17 MR. PUZZITIELLO: Yes. Yes.
18 MS. KONYK: Mr. Puzzitiello has made a motion
19 for approval of BofA 200016 with staff report
20 becoming part of the record. Do we have a
21 second?
22 MR. MISROCH: Second.
23 MS. KONYK: Second by Mr. Misroch. All those
24 in favor?
25 (Panel indicates aye.)
26 MS. KONYK: All those opposed?
27 (No response.)
28 MS. KONYK: Motion carries unanimously.
29 CHAIRMAN BASEHART: All right. That concludes
30 the regular agenda. We need to close the
31 meeting and open the --
32 MR. MacGILLIS: We don't need the court
33 reporter for the workshop.
34 CHAIRMAN BASEHART: Is there a motion to
35 adjourn?
36 MR. PUZZITIELLO: Motion to adjourn.
37 MS. KONYK: Second.
38 CHAIRMAN BASEHART: Motion and second has been
39 made.
40 All those in favor indicate by saying aye.
41 (Panel indicates aye.)
42 CHAIRMAN BASEHART: Before we -- let's suspend
43 that vote. We have our attendance. Everybody
44 was here last month except for the -- Glenn was
45 not here. He was out of town on business.
46 Does anybody think we ought to excuse him for
47 that?
48 MS. KONYK: We consider business being an
49 excused absence.
50 CHAIRMAN BASEHART: Consider the absence last
51 month to be excused. Everybody else was here.
52 We have a motion and a second for adjournment.
53 All those in favor?
54 (Panel indicates aye.)
55 (Thereupon, the proceedings were concluded.)
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CERTIFICATE

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 I
administered unto the witness 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 38 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 12th day of May, 2000.

RACHELE LYNN CIBULA, NOTARY PUBLIC *