

**PALM BEACH COUNTY**  
**BOARD OF ADJUSTMENT**

Thursday, December 20, 2001  
9:00 a.m. - 10:00 a.m.  
100 South Australian Avenue  
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer  
Notary Public

A T T E N D E E S

Robert E. Basehart, Chairman

Chelle Konyk, Vice Chairman

Mr. Raymond Puzzitiello

Ms. Nancy Cardone

Mr. Glenn Wichinsky

Mr. Joseph J. Jacobs

Mr. Bart Cunningham

Mr. Jonathan Gerber, Alternate

Jon MacGillis, Principal Planner

David Cuffe, Civil Engineer II, Land Development

Amy Petrick, Asst. County Attorney

Alan Seaman, Senior Planner, Zoning

Miradieu Aubourg, Jr., Planner I

Brad Dunker, Planner I

Janet Quinn, Secretary

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P R O C E E D I N G S

CHAIRMAN BASEHART: Our attorney isn't here yet, but we're going to start anyway. I'd like to welcome everybody to the December 20, 2001, Palm Beach County Board of Adjustment meeting.

First item on the agenda will be roll call.

MS. QUINN: Ms. Nancy Cardone.

MS. CARDONE: Here.

MS. QUINN: Mr. Joseph Jacobs.

MR. JACOBS: Here.

MS. QUINN: Ms. Chelle Konyk.

VICE CHAIRMAN KONYK: Here.

MS. QUINN: Mr. Ray Puzzitiello.

MR. PUZZITIELLO: Here.

MS. QUINN: Mr. Glenn Wichinsky.

MR. WICHINSKY: Here.

MS. QUINN: Mr. Bart Cunningham.

MR. CUNNINGHAM: Here.

MS. QUINN: Mr. Stanley Misroch.

MR. MISROCH: (No response.)

MS. QUINN: Mr. Jonathan Gerber.

MR. GERBER: Here.

MS. QUINN: And Mr. Bob Basehart.

CHAIRMAN BASEHART: Here. Okay. We have a quorum. Actually, we have more than a quorum.

First item on the agenda after roll call is proof of publication. I believe I have a copy of the proof of publication here in the file.

We're just going to accept that into the record; is that okay with everybody?

Next item is remarks of the Chairman. All I'd like to do is for those of you that are not regular attendees at these meetings, we break our agenda into two sections.

The first section is known as the consent agenda. That consists of items where after staff evaluation the staff has concluded that the matter should be approved, has recommended approval, and if there are proposed conditions of approval the applicant has been made aware of them and agrees with the conditions and also those items that have not received any indication of opposition from surrounding property owners or the public.

The Board of Adjustment members have received the detailed staff reports. We've all read them. If no member of the Board feels that there's any reason to pull the item for a full hearing, then those items will remain on consent

which means that the applicant needs only to acknowledge agreement with the conditions, and that body of applications will be approved as a single-- generally as a single item. No presentation is necessary. The staff report becomes the record of the hearing.

The second item or group of items is the regular agenda. Those are items where there are recommendations for either partial or full denial of the application or where there's been an indication of opposition from the public.

In those cases the item requires a full hearing. The applicant must present his or her justification for the variances. Staff will make their presentation. The Board will ask questions and then make a decision as to whether or not to  
a p p r o v e t h e i t e m .

On the consent agenda if any member of the public is here to register objections, then the item will be pulled and moved to the regular agenda.

Okay. That being said, one other thing I'd like to mention. There is an item on the consent agenda that I am involved in. This is a companion application with a zoning petition which I am the agent for, so I did not participate in the preparation of the application for the variance. What I'd like to do -- it's on consent, so I don't know if that represents a conflict or not if it's on consent, but what I'll do is I will ask that the Board vote on that one consent item if it stays on consent separately so that I can recuse myself. Okay?

Are there any other members of the Board who have anything that they would like to say to the audience? Seeing none, the next item on the agenda will be the comments -- I'm sorry, the approval of the minutes.

We've all received the minutes of our November meeting. Does anybody have any problems with them? Okay. Then we can have a motion for adoption of the minutes.

MR. JACOBS: So moved.

MR. WICHINSKY: So moved.

CHAIRMAN BASEHART: We have a motion by Mr. Jacobs. Second by Mr. Wichinsky.

All those in favor?

BOARD: Aye.

CHAIRMAN BASEHART: Opposed?

(No response.)

CHAIRMAN BASEHART: Okay. The minutes are adopted for November of 2001.

Next item is remarks of the director.  
Jon?

MR. MacGILLIS: Just one comment. Commissioner Aaronson's office has appointed someone. I guess they did at the Tuesday hearing. I think it's William Sadof. I'm not sure if that's the right pronunciation.

I believe, Jonathan Gerber, you've been reappointed, too.

MR. GERBER: I've been reappointed.

MR. MacGILLIS: Okay. So I think there's just one left that we're waiting for. So hopefully we'll have a quorum for January's hearing then.

CHAIRMAN BASEHART: Okay.

VICE CHAIRMAN KONYK: Who are we waiting for?

CHAIRMAN BASEHART: You.

MR. MacGILLIS: Who was the third appointment we were waiting for? I'm not sure. Somebody up here is being reappointed. Mr. Puzzitiello, I think.

MR. JACOBS: I think I am.

MR. MacGILLIS: Mr. Jacobs, I think it is.

CHAIRMAN BASEHART: Okay. Well, we expect that that will happen before our next meeting.

MR. MacGILLIS: No, because I think they just had the last -- Tuesday was their last BCC meeting of this year.

CHAIRMAN BASEHART: No, I mean before our next meeting, we're not meeting again until the third week of January, so.

MR. MacGILLIS: I think as long as we have a quorum we'll be all right even if they didn't do it till the next meeting.

CHAIRMAN BASEHART: Okay. Anything else, Jon? Any withdrawals?

MR. MacGILLIS: No. There's a withdrawal, but that's on our regular agenda.

CHAIRMAN BASEHART: All right. Then we'll move onto the agenda. First is -- well, we've

got withdrawals and postponements. Applicant for BOFA2001-085 is withdrawn. That's a matter of right. We don't have to vote on that; is that correct?

MR. MacGILLIS: It never came before you before for a postponement, so it's by right a withdrawal.

CHAIRMAN BASEHART: Okay. So for the record, BOFA2001-085 has been withdrawn.

CHAIRMAN BASEHART: Now we'll get to the postponed items. I believe that we have two. BOFA2001-075, Kilday & Associates.

Is that a matter of right? Is this the first postponement?

MR. MacGILLIS: No. Collene Walter is here from Kilday & Associates to address this.

CHAIRMAN BASEHART: Okay. Collene?

MS. WALTER: Good morning. Collene Walter with Kilday & Associates. This actually is, I believe, the third postponement that we will be asking.

We still have been working with the Cypress Island Property Owners Association who has not had their board meeting to be able to authorize their Board of Directors to sign the consent agenda or the consent for the item. And we do apologize for the postponements.

The variances, though, appear to be non-controversial and we've worked with staff in putting together the staff reports and recommendations.

And in an effort to not have to duplicate a lot of effort that's already gone into it, we would like to request one more postponement to see if the property owners association can get their members together for their meeting to get the consent. Thank you.

CHAIRMAN BASEHART: And the association has no problem with the postponement? Are they here?

MS. WALTER: I do not think there are any

members of the association here. They have been kept abreast and they know that we cannot go forward, and I don't believe they have a problem with the postponement.

CHAIRMAN BASEHART: Okay. Jon, does the staff have any --

MR. MacGILLIS: We don't have a problem. We did receive a letter December 11th. I don't know if Collene has seen this one from the Cypress Island Marina Association.

John Johnson who's the president said, "Since we still do not have an agreement per my letter of August 16, 2001, I am cancelling the consent form signed on August 15th for Cypress Island Marina."

So I think it's consistent with what Collene is saying. I mean, if they don't get consent this application can't go forward, so.

CHAIRMAN BASEHART: Okay.

MS. WALTER: The Cypress Island Property Owners Association has many different entities, the Cypress Island Marina Association being one of them. So it's a little bit complex in regards to ownership.

CHAIRMAN BASEHART: Okay. Anybody have a problem with -- well, it can't move forward if the consent hasn't been signed; right?

MR. MacGILLIS: Right.

CHAIRMAN BASEHART: So do we need a motion to postpone this?

MR. MacGILLIS: Yes.

VICE CHAIRMAN KONYK: Yeah, because it's not by right.

MR. MacGILLIS: Are you requesting 30 days or 60?

MS. WALTER: I think at this point in time I'd probably like to request a 60 day postponement. With the holidays I'm not sure anything is going to happen between now and January 17th.

MR. MacGILLIS: Do you know when the March hearing is?

VICE CHAIRMAN KONYK: Are they waiting for their homeowners to return from --

MS. WALTER: Their attorney has advised them it has to be put before a vote of the entire membership, not just the board of officers.

MR. MacGILLIS: I guess February 21st then it would be coming to the Board again.

VICE CHAIRMAN KONYK: Who is their attorney?

CHAIRMAN BASEHART: Okay. Do we have a motion?

VICE CHAIRMAN KONYK: I'll make a motion to postpone BOFA2001-075 to the February, 2002, meeting.

CHAIRMAN BASEHART: Okay. We have a motion.

MS. CARDONE: Second.

CHAIRMAN BASEHART: Second by Ms. Cardone. All those in favor?

BOARD: Aye.

CHAIRMAN BASEHART: Opposed?

(No response.)

CHAIRMAN BASEHART: Motion carries.

MS. WALTER: Thank you very much.

CHAIRMAN BASEHART: Thank you. And the next item is --

VICE CHAIRMAN KONYK: Is that both of those that we were just doing?

MR. MacGILLIS: Yes.

VICE CHAIRMAN KONYK: So let me amend my motion to say BOFA2001-075 and 2001-076.

CHAIRMAN BASEHART: And the seconder agrees to that? Okay. Those two items are postponed till February.

CHAIRMAN BASEHART: That gets us to the consent agenda. When your item is called, if you would please come forward to the microphone to acknowledge your agreement with conditions.

First one is BOFA2001-074, Anna S. Cottrell.

MS. COTTRELL: Good morning. I'm Anna Cottrell, the agent for this application. We're in agreement with staff on the conditions and have no objection.

CHAIRMAN BASEHART: Okay. Is there any member of the public here to speak on this item? (No response.)

CHAIRMAN BASEHART: Seeing none are there any letters?

MR. MacGILLIS: No letters.

CHAIRMAN BASEHART: Any member of the Board feel there's a reason to pull this item?

(No response.)

CHAIRMAN BASEHART: Seeing none, we'll leave it on consent.

#### 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 5.7.3 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 property has unique conditions and circumstances that need to be considered when applying the literal intent of the ULDC parking requirements, FAR, and maximum building coverage. The Unified Land Development Code (ULDC) requires 1 space for every 200 square feet of office space, and 1 space for every 1,000 square feet of office space, and 1 space for every 1,000 square feet of warehouse space. When completed, the distribution facility would be required to have 65 parking spaces. The applicant is proposing 17 spaces, which necessitates a variance of 48 spaces. The ULDC requirements are based on parking needs for employees and customers. The distribution facility does not require much parking since there is no wholesale or retail sales on site. In addition, the facility only employs three to four individuals which significantly reduce the parking demands on site. A traffic study completed May 4, 1999, confirms that this distribution facility does not need the number of parking spaces that are required by the ULDC. The expansion will provide more storage space but will not

necessitate additional parking requirements. The two remaining variances are required due to inconsistencies between the Comprehensive Plan and the ULDC. The Comprehensive Plan was amended October 22, 2001, to allow a maximum floor area ratio (FAR) of .15 in the AGR Zoning District. The first reading of the ULDC amendments that will update the maximum FAR to .15 and increase the maximum building coverage to 15% was approved November 20, 2001, with adoption of the amendments scheduled for December 18, 2001. The applicant would like to avoid any development time delays by receiving a variance so development may proceed prior to ULDC amendment adoption.

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

**NO.** This **is not** a self-created hardship. The applicant wishes to continue to operate a business at this location which requires the proposed expansion. The applicant has ample room to supply 65 parking spaces, however there is no demand on site for the parking spaces. The variance request for the increased FAR and maximum building coverage would not be necessary as soon as the ULDC is amended to complement the Comprehensive Plan. The Comprehensive Plan was amended October 22, 2001, to allow a maximum floor area ratio (FAR) of .15 in the AGR Zoning District. The first reading of the ULDC amendments that will update the maximum FAR to .15 and increase the maximum building coverage to 15% was approved November 20, 2001, with adoption of the amendments scheduled for December 18, 2001. The applicant would like to avoid any development time delays by receiving a variance so development may proceed prior to ULDC amendment adoption.

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

**NO.** The proposed variances **are consistent** with the Comprehensive Plan and its guidelines for the AGR Land Use. The parking variance is permissible because the distribution center does not offer wholesale or retail sales on site, and employs only three to four people. The FAR and building coverage variances will allow the site to be developed in accordance with current Comprehensive Plan AGR requirements. The Comprehensive Plan was amended October 22, 2001, to allow a maximum floor area ratio (FAR) of .15 in the AGR Zoning District.

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 ULDC **would impose** an unnecessary and undue hardship upon this applicant. The applicant has already postponed expansion plans while awaiting the FAR increase in the Comprehensive Plan amendment that was approved October 22, 2001. Postponement until the anticipated ULDC amendments are adopted would delay the continued expansion of this site, potentially for two harvest cycles, which presents the greatest demand for these agricultural products.

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

**YES.** The requested variances **are the minimum** necessary for a reasonable use of the land. Expansion of land area is not an option as the adjacent property on three sides is committed as the preservation portion of a 60/40 Agricultural Reserve PUD (Sussman PUD). The 30,000 square feet of expansion will allow the distribution center to provide increased quantities of agricultural products to the farms in the Agricultural

Reserve. The parking space variance allows the applicant to provide an adequate number of parking spaces without providing unnecessary additional spaces as required by the ULDC. The FAR and maximum building coverage variances are consistent with the Comprehensive Plan and anticipated ULDC amendments.

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

**YES.** The grant of this variance **will be** consistent with the Comprehensive Plan and the ULDC. Both the Comprehensive Plan and the ULDC encourage the development of agriculture and supporting uses in the AGR Zoning District. The variance request for the increased FAR and maximum building coverage would not be necessary as soon as the ULDC is amended to complement the Comprehensive Plan. The Comprehensive Plan was amended October 22, 2001, to allow a maximum floor area ratio (FAR) of .15 in the AGR Zoning District. The first reading of the ULDC amendments that will update the maximum FAR to .15 and increase the maximum building coverage to 15% was approved November 20, 2001, with adoption of the amendments scheduled for December 18, 2001. The applicant would like to avoid any development time delays by receiving a variance so development may proceed prior to ULDC amendment adoption. The parking space variance allows the applicant to provide an adequate number of parking spaces without providing unnecessary additional spaces as required by the ULDC.

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

**NO.** The granting of the requested variances **will not** be injurious to the surrounding areas. Expansion of land area is not an option as the adjacent property on three sides is committed as the

preservation portion of a 60/40 Agricultural Reserve PUD (Sussman PUD). There are no residences in the area. The applicant provides a necessary service to the agricultural business that is encouraged in the AGR Zoning District. Expansion is limited to the existing site and is consistent with the needs and character of the surrounding agricultural area. The distribution facility does not need the 65 parking spaces that are required by the ULDC. The proposed FAR and maximum building coverage variances are consistent with the Comprehensive Plan and will have no impact on surrounding properties.

#### STAFF FINDINGS

1. The applicant **has met** the seven criteria necessary in order to be granted the requested variances.
2. The property **has unique circumstances** that need to be considered when applying the literal intent of the ULDC parking requirements, FAR, and maximum building coverage. The parking requirements for a warehouse are designed to meet the demand for customer and employee parking. The Monte Package Company will employ only three to four individuals and does not provide any on site wholesale or retail sales. The FAR and maximum building coverage variances will be consistent with the Comprehensive Plan and proposed amendments to the ULDC. The variance will allow the owner to avoid any development time delays that may occur while awaiting amendments to the ULDC.
3. The granting of the requested variances **will not** confer special privilege denied by the Comprehensive Plan and the ULDC. The parking space variance allows the applicant to provide an adequate number of parking spaces without providing unnecessary additional spaces as required by the ULDC. The FAR and maximum building coverage variances are consistent with the Comprehensive Plan and anticipated ULDC amendments.

4. The granting of the requested variances **will not** be injurious to the surrounding areas. The applicant provides a necessary service to the western agricultural community that is as an encouraged use in the AGR Zoning District. Expansion is limited to the existing site and is consistent with the needs and character of the surrounding agricultural area. The distribution facility does not need the 65 parking spaces that are required by the ULDC. The proposed FAR and maximum building coverage variances are consistent with the Comprehensive Plan, and will have no impact on surrounding properties.
5. The variances, if granted, **will be** consistent with the intent of the Comprehensive Plan and the ULDC. The property has a land use designation of AGR, which supports agricultural uses such as packing and distribution facilities. The Board of County Commissioners also encourages property west of State Road 7 to continue to support uses necessary to the agricultural community. This use has existed and provided a necessary service to the western agricultural community. The three variances, if granted, will recognize the uniqueness of the use and existing site layout, and allow site expansion.

#### **ENGINEERING COMMENT**

No comments. (ENG)

#### **ZONING CONDITIONS**

1. By June 20, 2002, 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, Exhibit 9, presented to the Board of Adjustment at the December 20, 2001, hearing. These Exhibits can be found in the BA2001-074 BA file in the Zoning Division. **(BLDG PERMIT-ZONING)**
2. By December 20, 2002, the applicant shall

receive a building permit to construct the first phase of the warehouse expansion on this property (PCN 00-41-46-01-01-002-0000), consistent with Site Plan, Exhibit 9, found in the BA2001-074 BA file in the Zoning Division. Any modifications to the submitted Site Plan shall be submitted to the BA Staff to ensure compliance with the Board's approval. **(BLDG PERMIT-ZONING-BA)**

3. The parking variance is granted from a required 65 spaces to a proposed 17 spaces for a 48 space reduction for this specific warehouse distribution center. Any change in use shall require BA Staff review and approval to ensure compliance with the Board's approval. **(ONGOING)**

CHAIRMAN BASEHART: Second item is BOFA2001-087, Ricardo D. Gerlach and Lili Caballero.

MR. GERLACH: Good morning.

CHAIRMAN BASEHART: Your name for the record?

MR. GERLACH: My name is Ricardo Garlic.

CHAIRMAN BASEHART: Okay. The staff has recommended approval of your variance with five conditions. Are you familiar with them?

MR. GERLACH: Yes.

CHAIRMAN BASEHART: Do you agree with them?

MR. GERLACH: Yes.

CHAIRMAN BASEHART: Are there any members of the public here to object to this item?

(No response.)

CHAIRMAN BASEHART: Seeing none, any letters?

MR. MacGILLIS: Just one letter of support from Karen Klein.

CHAIRMAN BASEHART: Okay. Any member of the Board feel this needs to be pulled?

VICE CHAIRMAN KONYK: No.  
CHAIRMAN BASEHART: All right. Then we'll leave this item on consent as well.  
MR. GERLACH: Thank you.

**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 5.7.3  
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.** Trails subdivision parcel 7. As previously stated, the land use designation is LR3 and the Zoning classification is RS. This lot is typical in size for this development (110 feet in depth and 65 feet in width) and supports a 2,412 square foot single family dwelling constructed in 1997 (B97006387). The applicant is requesting a variance for an existing swimming pool and a proposed screen roof screen enclosure. This lot has unique circumstances because there is a 20' platted golf course maintenance easement and landscape tract directly to the rear of the property, which acts as an additional buffer separation from the adjacent lot and will mitigate any impacts associated with the granting of these variances.

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 pool was constructed

according to incorrect setbacks from a Building Technician who granted a reduced rear setback. The applicant thought the setback for the proposed screen enclosure was originally permitted under the same circumstances. However, since the pool permit expired prior to the previous owner receiving a Certificate of Completion the pool was never finalized. When the applicant applied in August 2001 for a building permit for the screen enclosure (PR 01 029870), Building staff informed the applicant he had to meet the required rear setbacks for the existing pool and proposed screen enclosure. Since the pool is currently existing and cannot be moved from the ground, the proposed screen roof screen enclosure has to respect the existing pool layout. The applicant is acting in good faith to obtain all necessary permits. If the variance is approved, the applicant will be able to legalize the existing pool with the current ULDC Zoning requirements for rear setback in RS Zoning District and apply for a building permit for the proposed screen roof screen enclosure.

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

**NO.** As previously mentioned, the lot is similar to other lots within Winston Trails. This variance is justified since this subdivision supports many homes with swimming pools and screen roof screen enclosures and will allow the applicant the ability to enjoy the limited outdoor area. In addition, the 20' platted golf course maintenance easement and landscape tract will mitigate any negative impact associated with the variance. The location of the screen enclosure is subject to the pool location, therefore, the applicant has no design options to eliminate the pool setback variance. **No special privilege** will be granted to this property owner if the variance is granted.

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 enforcement of the provision of the code **will deprive** the applicant of rights commonly enjoyed by other parcels of land in the same District. To require the applicant to demolish the existing pool and reconstruct it to comply with the code is not a viable or reasonable option. The setbacks for residential properties establish and maintain continuity of structures from property line. Considering the applicant is requesting 5.5 foot variance for the existing pool, 4.5 foot for the proposed screen roof screen enclosure, there is approximately 25 feet separation between the subject units and the nearest units to the east, the Code intent can be met.

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

**YES.** The applicant is requesting a variance to allow an existing 13'x28' swimming pool and is proposing a screen roof screen enclosure to remain in the rear setback. The existing pool is setback 5 feet and the screen roof screen enclosure will be setback 3 feet from the property line. The requested variance for the swimming pool is 5.5' and 4.5' for the screen roof enclosure. The variance for both the swimming pool and screen roof screen enclosure are considered minimal due to the fact that there is a 20' golf course easement which serves as an adequate separation and buffer to mitigate the impact of the variance.

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

**YES.** Granting the variance will be consistent with the intent of the code. The intent of the setbacks for residential use is to establish consistency and uniformity in appearance from all property lines. The previous property owner was issued a building permit (B98003568) to construct the pool in ground with the spa. A similar variance for rear setback was granted two blocks south from the subject lot by the Board of Adjustment in 1997, (BOFA97003) for a pool and screen enclosure. This residence located at 6108 Royal Birkdale Dr. also abutted the same 20 foot golf course maintenance easement and landscape tract. Recently in October 2001, (BA2001-071), within the Winston Trails subdivision, parcel 7 was granted a variance for rear setback requirement for pool.

7. THE GRANT OF THE VARIANCE WILL BE  
I N J U R I O U S  
TO THE AREA INVOLVED OR OTHERWISE  
DETRIMENTAL TO THE PUBLIC WELFARE:

**NO.** Granting the variance will not be injurious to the neighborhood. Many residences within the Winston Trails PUD have similar pools in a screen roof screen enclosure. The separation created by the 20' golf course easement will provide privacy and buffer between the subject and the property to the east.

#### ENGINEERING COMMENT

No comments (**ENG**)

#### ZONING CONDITIONS

1. The variance is only for the rear setback for the existing swimming pool and proposed screen roof screen enclosure. Any further improvements must require setbacks. (**ONGOING**)
2. The screen roof screen enclosure shall at no time in the future be enclosed with a solid pan roof or walls of any type of material other than screen (**ONGOING**)

3. By February 15, 2002, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result letter and revised Survey in order for PR 01029870 to be finalized for the screen roof screen enclosure. **(DATE MONITORING-BLDG PERMIT)**
4. By February 15, 2002, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result Letter and revised Survey in order for B98011517 to be finalized for the existing pool in ground. **(DATE MONITORING-BLDG PERMIT)**
5. By February 15, 2002, the staff shall amend the Site Plans on file to note the rear setback variance for the pool and screen roof screen enclosure (BA2001-087). **(DATE:MONITORING-DRC)**

CHAIRMAN BASEHART: Next item is BOFA2001-088 [sic], petition of Land Design South.

MR. LELONEK: Good morning. Joe Lelonek for Land Design South. We do agree with staff comments and recommendation as well as the conditions.

CHAIRMAN BASEHART: Okay. Is there any member of the public here to speak on this item? (No response.)

CHAIRMAN BASEHART: Seeing none, any letters?

MR. MacGILLIS: This is a BATE. No notice was sent out.

CHAIRMAN BASEHART: That's right. Okay. Any Board member want to pull this? Okay. This will stay on consent as well.

#### **STAFF RECOMMENDATION**

Staff recommends a maximum 12 month Time

Extension from **January 18, 2002, to January 18, 2003**, consistent with **Site Plan, Exhibit 21**, presented to the Board of Adjustment at the January 18, 2001, Hearing and consistent with Section 5.7.H.2 of the ULDC, to provide additional time for the petitioner to commence development and implement the approved variances.

The property owner shall comply with all conditions of approval of BA2000061 listed below. There were **no modifications** to these conditions.

#### ZONING CONDITIONS

1. 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. **(BLDG PERMIT: BLDG)**
2. Prior to DRC certification, the applicant shall provide the DRC staff with documentation from a Certified Engineer that the 1.7 acre lakes shown on the site plan, presented to the Board of Adjustment, are required as a result of the fact additional wells were required on-site and the fact french drains could not be utilized to handle on-site drainage. **(DRC-BA)**
3. All the pedestrian amenities shall remain in the general location as indicated on the Site Plan, dated February 24, 2000, presented to the Board of County Commissioners. **(ONGOING)**
4. In addition to the pedestrian amenities, as indicated on the Site Plan, dated February 24, 2000, presented to the Board of County Commission, the applicant shall provide the following: a) a fountain in the lake area located at the southeast corner of the Spalding MUPD. **(DRC)**
5. This time extension BATE 2001-088 is based on the Site Plan presented to the Board of Adjustment at the January 18, 2001, Hearing, Exhibit 21. **(ONGOING)**

**ENGINEERING COMMENTS**

No comment. (ENG)

CHAIRMAN BASEHART: Next is BOFA2001-090, Kimberly Dellastatious.

MS. DELLASTATIOUS: Kim Dellastatious. I'm the architect and we agree to the three conditions.

CHAIRMAN BASEHART: Okay. Any member of the public here to speak on this item?

(No response.)

CHAIRMAN BASEHART: None. Any letters?

MR. MacGILLIS: There was three and staff addressed all their concerns.

CHAIRMAN BASEHART: Okay. Any member of the Board feel this item needs to be pulled?

(No response.)

CHAIRMAN BASEHART: Okay. We'll leave this application on consent as well.

**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 5.7.3 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.** This property **has unique circumstances** that need to be considered when applying the literal intent of the landscape buffer provisions of the ULDC. The approved site plan (MUPD petition #76-03(F) denotes a "vested" 10' landscape strip between the proposed parking and LeChalet Boulevard. During the design stages of the construction drawings, the architect found that the actual field conditions could not physically accommodate this width. Construction of the building footprint and associated required parking, as approved by petition #76-03(F) would leave only a 5' strip for required landscaping. In addition, any realignment of the new parking lot and landscaping would not "match-up" logically to the existing medical office parking and landscaping to west and could complicate the existing shared parking agreement.

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

**NO.** This **is not** a self created situation. The applicant's client is proposing to develop the site in accordance with the regulating site plan approved under petition #76-03; and includes a 5,400 SF medical building with associated parking. The right-of-way buffer of 10 feet, also approved on the regulating site plan cannot physically fit within the allocated space in the field. The applicant has no recourse but to request a variance. Approval of the variance will permit the construction of the right-of-way buffer at 5' which in turn will permit proper alignment to the existing 5' wide landscape buffer to the west. This alignment will also permit logical connection to the existing parking and access pavement of the existing parcel to the west. The granting of the variance will conform to the established right-of-way buffer already present along LeChalet Boulevard.

The applicant is willing to upgrade the plant material in the 5 foot wide buffer in order to meet the intent of the landscape code and mitigate the buffer reduction. There are currently only acacia trees in the landscape buffer along Le Chalet Boulevard that the applicant is willing to remove and replace with a quantity and species acceptable by code. The applicant will also be required to remove all prohibited species currently found on the site.

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

**NO.** The granting of the requested landscape variances **will be consistent** with the general intent of the code. The intent of the landscape code is to ensure minimum landscape along rights-of-way and within parking lots. The applicant will be required to comply with all landscape requirement with the exception of the buffer along Le Chalet Boulevard. Staff is recommending landscape conditions of approval to upgrade the plant material in the right-of-way buffer to ensure that, if the variance is granted, the intent of the landscape code will be satisfied.

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 this code **would place an undue hardship** on the applicant. The site has a regulating site plan approved under petition #76-03; and includes a 5,400 SF medical building with associated parking and right-of-way buffer of 10 foot. The 10 foot buffer cannot physically fit within the allocated space in the field. The site to the west, also approved o the regulating site plan, has

installed a 5' buffer strip. Requiring the applicant to install anything wider would create an undue hardship and an alignment problem when trying to connect to the existing landscape buffer, access and parking pavement at the western parcel.

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

**YES.** The landscape buffer width reduction along Le Chalet Boulevard will allow this project to move forward to permitting. With the landscape conditions, recommended by staff, the general intent of the landscape code **will be** met and the property owner will have the best use of this property. The granting of the 5 foot landscape buffer reduction along Le Chalet Boulevard **is a reasonable** request considering all other property development regulations will be satisfied.

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

**YES.** The land use designation of this property is CL with a zoning classification of MUPD. The land use encourages commercial and office uses for this property. The literal intent of the landscape code is to establish minimum width buffers to accommodate plant material to mitigate the use on adjacent properties. In this particular situation, the south property line is adjacent to Le Chalet Boulevard. The established right-of-way landscape buffer along the road varies from 5 foot to 15 foot. This is in part due to the fact that a right-of-way buffer of 10 foot (shown "vested" on the regulating site plan dated 6-13-01) measures only 5 foot in the field. The request by the applicant to reduce the vested 10 foot right-of-way buffer to 5 foot (along his parcel) will permit the buffer to align to the existing buffer to

the west. Approval of the reduced buffer width, however, **will still be consistent with the purpose of the Code** which is to provide screening and buffer from adjacent properties.

7. THE GRANT OF THE VARIANCE WILL BE  
I N J U R I O U S  
TO THE AREA INVOLVED OR OTHERWISE  
DETRIMENTAL TO THE PUBLIC WELFARE:

**NO.** Granting the landscape variance **will not** be injurious to the general of surrounding area. This property is currently vacant and deficient in the required right-of-way buffer landscaping. The proposed site improvements will significantly improve the appearance of this site. The site will comply with all other code requirements in terms of building setbacks, lot coverage, parking, loading ingress/egress.

#### ENGINEERING COMMENT

No comments or certification issues. (ENG)

#### ZONING CONDITIONS

1. By June 20, 2002, 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, Exhibit 9, presented to the Board, simultaneously with the building permit application. **(BLDG PERMIT: BLDG)**
2. By December 20, 2002, the applicant **shall** obtain a building permit for the 5,400 square foot medical office building in order to vest the south property line right-of-way landscape buffer reduction subject of BA2001-090. **(DATE: MONITORING-BLDG PERMIT)**
3. Prior to the issuance of the Final Certificate of Occupancy for the 5,400 square foot retail building, the applicant **shall contact** the Zoning Division for a landscape field inspection to verify the installation and/or completion of the

following landscaping:

**South Buffer (Along Le Chalet Boulevard)**

- a. Remove the (5) existing acacia trees along the right-of-way of the applicant's parcel.
- b. Install (10) ten oak trees (14) o u r t e e n foot over all planted 20 feet, or portion thereof, on center along the right-of-way of the applicant's parcel.
- c. Install 36 inch over all ficus hedge planted 24 inches on center along the right-of-way of the applicant's parcel.
- d. And remove all exotic species.  
(MONITORING-INSPECTIONS-CO)

CHAIRMAN BASEHART: Next is BOFA2001-091, Moyle, Flanigan.

MR. MacGILLIS: Just one minor change on the conditions on page 121. Number 5.b should read, "Install a 36 inch hedge 24 inches on center," it should read.

CHAIRMAN BASEHART: Okay.

MR. MILLAR: Same as before.

MR. MacGILLIS: It's the only change.

CHAIRMAN BASEHART: Name for the record?

MR. MILLAR: Chuck Millar with Moyle, Flanigan. We accept conditions as listed.

CHAIRMAN BASEHART: And as amended?

MR. MILLAR: And as amended.

CHAIRMAN BASEHART: Okay. Any member of the public here to speak on this item?

(No response.)

CHAIRMAN BASEHART: Seeing none. Staff, any --

MR. MacGILLIS: No letters.

CHAIRMAN BASEHART: No letters. Any member of the Board feel this item needs to be

pulled?

(No response.)

CHAIRMAN BASEHART: Okay. We'll leave this on consent as well.

MR. MILLAR: Thank you.

#### 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 5.7.3 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.** This .5 acre non-conforming lot has conditions and constraints that must be considered if the site is to be redeveloped. This lot is located along Congress Avenue which supports properties that were developed over a 75 year span. Many have been affected by the right-of-way taking over the years, leaving many of them non-conforming with respect to lot size and building setbacks. Some properties have been redeveloped or combined with other properties to comply with current regulations while others continue to operate with legal non-conformities. This particular lot is .50 acres, only half the required 1 acre lot size required for the CG zoning district. It currently supports a 1,700 sq/ft retail building that is currently abandoned. The building was constructed on an angle on the property that greatly affected the parking and landscape once the right-of-way dedication was done over the years. The current owner of the property was proposing to renovate the existing building and maintain the existing parking

lot layout. Also, the applicant is not on septic and must provide a septic field on site along the north property line. However, after careful review of his needs and county code requirements it was decided that the existing building would have to be demolished. In doing so the property owner must comply with current regulations. All property regulations can be met with the exception of the right-of-way buffer width along Congress Avenue and the setbacks along the side street and rear of the proposed building. Staff is recommending conditions of approval that would ensure the general intent of the buffer and setbacks will be met if the variances are granted.

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

**NO.** The applicant is proposing to develop this site to support his retail showroom for his marble business. The original intent when purchasing the property was to utilize the existing building and site layout. However, after careful review of the county regulations and user needs it was determined it would be necessary to demolish the existing building and redevelop the site. The applicant has had to deal with existing constraints due to the .5 acre lot size and current regulations. The applicant can comply with all regulations with the exception of the building setbacks along the rear and side corner and the right-of-way buffer along Congress Avenue. The granting of the requested variances will recognize the hardship present by the reduced lot size, fact a on-site area must be shown on site, corner lot with increased setbacks for building and need to design vehicular circulation through the site.

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

**NO.** This **is not** a self-created hardship.

As stated in number 2 above, the applicant recently purchased the property and intended to maintain the existing non-conforming structure and site layout. However, after careful consideration of the intended use of the building and site it was determined that in order to maximize the site layout the existing building would have to be demolished. The proposed site plan increases the building square footage from the original building, however, the majority of the existing non-conformities with respect to landscape, parking, loading, dumpster location are addressed. The three setbacks are minor and can be mitigated with upgrade landscape material. The 20 foot buffer along Congress Avenue will remain until such time as future dedication is given. The remaining 15 foot buffer will be adequate to accommodate the upgrade landscape plant material. The two setback variances will be also mitigated by upgrade plant material along the south and east property line. The ULDC currently does not have regulations that encourage infill and redevelopment of sites in PBC. Therefore, many sites remain non-conforming and/or abandoned. In this particular situation the owner is proposing to demolish the site and upgrade it to the greatest extent possible to current regulations. This will greatly improve this intersection and hopefully encourage other property owners to also redevelop and renovate non-conforming structures and sites.

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 code would discourage redevelopment of this abandoned site. The site was originally developed in the 1960's and at that time was one acre in size and met all 1958 Zoning Code requirements. However, as a result of right-of-way taking and changes

in the Zoning Code the site and building no longer comply with code. The applicant proposed to renovate the existing building and maintain the existing non-conformities, however, this idea was abandoned for a new site plan. The proposal will greatly improve this property in terms of appearance and how it functions for the owner and users of the site. The proposed architecture is a significant improvement over the existing structure, the landscaping will be greatly improved, the parking and handicapped spaces will meet current code. Therefore, the variances are needed to allow the proposal to move forward. The hardship to the applicant is that the ULDC does not have provisions related to reduced setbacks, buffers for properties that are non-conforming and the County is encouraging to be redeveloped. The granting of these variances will improve the site and encourage other property owners to invest in their properties.

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

**YES.** The granting of the buffer reduction and two setback variances are the minimum necessary to allow the applicant to implement the proposed redevelopment of this site. The site supports an abandoned retail building and site layout that is grossly inconsistent with current regulations, in terms of parking, circulation, landscaping, etc. The proposal will eliminate many non-conformities and ensure this site which is located along a major commercial corridor zoned for intense commercial will once again be a viable use.

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

**YES.** The objectives of the Comp Plan and ULDC is to encourage intense commercial

use on this property. The site currently supports an abandoned commercial retail flower shop. The proposal is to demolish this building and construct a new 3,300 sq/ft retail showroom. The granting of the three requested variances will allow the owner to enhance his customers' visit to his site. The recently adopted Managed Tier Growth System encourages redevelopment in the Urban/Suburban tier, which this project is located within. Many of the properties are non-conforming with respect to lot size and building setbacks. This redevelopment will greatly improve this intersection and assist the owner with improving his business.

7. THE GRANT OF THE VARIANCE WILL BE  
 I N J U R I O U S  
 TO THE AREA INVOLVED OR OTHERWISE  
 DETRIMENTAL TO THE PUBLIC WELFARE:

**NO.** The granting of the variance **will not** be injurious to the surrounding area. The site currently supports an abandoned retail use. Many other sites along Congress Avenue have been redeveloped to support new uses and structures. The existing building does not meet the current owners needs or reflect the image of the company. The redeveloped site will significantly improve the appearance of the site and how it functions for the user in terms of parking, ingress/egress, handicap parking, etc.

#### **ENGINEERING COMMENT**

The requirements that the Base Building Lines for the south and west sides of the subject property be forty (40) feet beyond the existing right-of-way lines of 2nd Avenue North and Congress Avenue, respectively, is hereby established at 25 feet north from the existing south property line of the subject property. The Base Building Line for Congress Avenue is hereby established at three (3) feet east from the west property line of a standard forty (40) foot corner clip at the intersection with the Base Building Line of 2nd Avenue North as established above. **(ENG)**

**ZONING CONDITIONS**

1. 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. **(BLDG PERMIT: BLDG)**
  
2. By December 20, 2002, the applicant shall have commenced construction on the proposed 3,300 square foot retail building in order to vest the variances subject to BA2001091. **(DATE: MONITORING (BA)-BLDG PERMIT-BA)**
  
3. By October 20, 2002, the applicant shall obtain a building permit for the 3,300 sq/ft. **(DATE: MONITORING(BA)-BLDG PERMIT)**
  
4. Prior to issuance of the final building inspection the applicant shall supplement the existing landscape buffer along Congress Avenue as follows:
  - a) Install native 14 foot high canopy trees every 20 feet on center.
  - b) Install a solid continuous 36 inch high native hedge, planted 24 inches on center. **(CO: MONITORING-LANDSCAPE-Zoning)**
  
5. The applicant shall update the landscaping along 2nd Avenue and east property line as follows:
  - a) Install 14 foot shade trees, 20 feet on center;
  - b) Install 36 inches on center, 24 inches on center. **(LANDSCAPING)**
  
6. The applicant shall construct the site consistent with the Site Plan, Exhibit 9, present to the Board of Adjustment at the December 20, 2001, hearing. Any deviations shall be presented to the BofA staff to ensure consistency with the approval and public hearing representation. **(ONGOING)**

CHAIRMAN BASEHART: Next item is BOFA2001-092.

VICE CHAIRMAN KONYK: Do you want to come back to it?

CHAIRMAN BASEHART: Well, yeah, we're going to separate this from the group, but we might as well find if we can keep it on consent. Urban Land Design [sic].

MR. EXLINE: Good morning. Jim Exline with Urban Land Consulting. We've reviewed the staff report and agree with the findings of fact and the one condition of approval. Thank you.

CHAIRMAN BASEHART: Okay. You got the name wrong on the agenda. It's Urban Land Consulting.

MR. MacGILLIS: Oh.

CHAIRMAN BASEHART: Okay. Is there any member of the public here to speak on this item? (No response.)

CHAIRMAN BASEHART: Seeing none, any letters?

MR. MacGILLIS: There was apparently three, and it appears that staff has addressed their questions.

CHAIRMAN BASEHART: Okay. Anybody thinks this needs to be pulled?

(No response.)

CHAIRMAN BASEHART: As I said, we're going to separate this and vote on it separately so that I can abstain.

#### **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 5.7.3 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:

**Variance I: Building Coverage**

There **are special circumstances** that are applicable to the subject property. The subject property is located at 7358 W. Boynton Beach Boulevard on the south side of the road approximately 500 feet east of Hagen Ranch Road. The future land use designation is CL/5 and the current zoning designation is MUPD. Recently, Comprehensive Plan revisions have incorporated a 50% floor area ratio (FAR) for MUPDs with non-retail uses. This is an increase of 25% from the previous requirement limiting the FAR to 25%. In this case, the self storage facility occupies 84,505 of the approved 94,500 square feet. Thus, the self-storage facility occupies 89% of the total approved floor area for the development. This extensive non-retail use within the MUPD zoning district is consistent with the Comprehensive Plan; however, the ULDC has not been revised to reflect these changes to the Comprehensive Plan. Thus, the general intent of the regulations for both the ULDC and the Comprehensive Plan have been met by the applicant.

**Variance II: Landscape Buffer**

The landscape buffers were approved based on the conditions of approval for the approved site plan as recommended at the public hearing. The existing landscaping was installed on the site upon construction of the self storage facility pursuant to the conditions of approval indicated on the approved site plan. Thus, these landscape buffers have been approved as part of the original approval for Petition #90-017 and have matured in their existing location.

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

**Variance I: Building Coverage**

Special circumstances and conditions **are not** the result of the actions of the applicant. Recent

Comprehensive Plan amendments have increased the floor area ratio (FAR) for MUPDs with non-retail uses. In this case, the applicant is requesting temporary relief from provisions of the ULDC until such time as the ULDC is revised. The proposed modifications to the approved site plan of Petition 90-017 will not result in an increase in the original building coverage. However, this project is now being reviewed pursuant to the MUPD property development regulations, which the property cannot comply without the granting of these variances.

**Variance II: Landscape Buffer**

The landscape buffers were installed pursuant to the conditions of approval associated with the approved site plan. There are no alternative site development options for the landscape buffers.

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

**Variance I: Building Coverage**

Granting of the requested variance **will not** confer upon the applicant special privileges denied by the Comprehensive Plan and this code to other parcels of land, buildings, or structures in the same district. In the case of the FAR, the applicant requests to allow the development of the property to meet the updated Comprehensive Plan requirements. The requested FAR variance is relief from the ULDC requirements that have not been revised concurrently with the Comprehensive Plan. The applicant meets the general intent of the code and has submitted these variances in order to continue to develop the property in good faith.

**Variance II: Landscape Buffer**

Granting of the requested variance for the landscape buffers encroaching into the easements will not confer upon the applicant any special privilege. The applicant proceeded with development of the property in accordance with the conditions of approval.

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:

**Variance I: Building Coverage**

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 create an unnecessary and undue hardship. As previously stated, the applicant requests relief from provisions of the ULDC that are more restrictive than the recent revisions to the Comprehensive Plan. This variance will be consistent with the requirements of the ULDC once these revisions are made, thus bringing the FAR variance into conformance with the ULDC and the Comprehensive Plan.

**Variance II: Landscape Buffer**

In regards to the landscape buffer variance, a literal interpretation of the ULDC would require the removal of the landscape buffers from the easements. This alternative would create an undue hardship because the property would then require additional variances for reductions of the landscape buffers and a development order amendment to modify conditions of approval, which would require a public hearing. Thus, granting of this variance would be the minimum variance necessary in order to achieve a reasonable use of the property.

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

**Variance I: Building Coverage**

The approval of these variances **is** the minimum variance that will allow for a reasonable use of the parcel of land, building or structure. The existing self storage facility generates very little impact on the property, the surrounding properties and infrastructure serving the general area. The proposed development of a funeral home

is subsequently replacing an approval for a sit-down restaurant. Both of these uses generate little impact on the surrounding area for an MUPD. The proposed development of the funeral home in place of the restaurant will also reduce the size of the bank on the property, thus lessening the impact of the development on the surrounding area further.

**Variance II: Landscape Buffer**

The landscape buffers were installed pursuant to the conditions of approval associated with the approved site plan. There are no alternative site development options for the landscape buffers. The required removal would create the need for additional variances to reduce the landscape buffer area and deviate from other development regulations. This buffer will also serve as a mitigation tool in screening the impacts of the other proposed variance to exceed the floor area ratio. The mature landscape buffer will mitigate aesthetic impacts of the development from the surrounding uses.

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

**Variance I: Building Coverage**

Granting of these variances **will be** consistent with the purposes, goals, objectives and policies of the Comprehensive Plan and this Code. As previously stated, the proposed development is currently consistent with the Comprehensive Plan; however, the ULDC does not reflect the recent changes in the Comprehensive Plan. Thus, the applicant is requesting relief from the ULDC requirements in order to utilize the available buildable area on the subject property under the regulations of the Comprehensive Plan.

**Variance II: Landscape Buffer**

Granting of the landscape buffer variance will also meet the above criteria. The landscape buffers were installed in good faith by the applicant pursuant to the conditions of approval associated with the approved site plan. The landscape buffers requirements of the ULDC are

designed to screen the development and the activities on site from the surrounding land uses. The vegetation within the easement areas is mature and is screening the uses on site thus meeting the intent of the ULDC and the Comprehensive Plan.

7. THE GRANT OF THE VARIANCE WILL BE  
I N J U R I O U S  
TO THE AREA INVOLVED OR OTHERWISE  
DETRIMENTAL TO THE PUBLIC WELFARE:

**Variance I: Building Coverage**

Granting of these variances **will not** be injurious to the area involved or otherwise detrimental to the public welfare. The self storage facility exists on the property and generates a very low intensity use on the property. The proposed development on the property is also a relatively low intensity use. These uses mitigate the impacts of the excess floor area coverage on the property. Also, other commercial development exists within close proximity to the site. Therefore, the uses proposed within the subject property will be consistent with other parcels with frontage on Boynton Beach Boulevard.

**Variance II: Landscape Buffer**

Granting of the landscape variances will screen the structures and the activities on the property from surrounding uses and development. This is consistent with the ULDC and the Comprehensive Plan and will mitigate the impacts of the floor area coverage variance.

**ENGINEERING COMMENT**

No Comment (ENG)

**ZONING CONDITIONS**

1. The property owner shall provide the Building Department 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. **(BLDG PERMIT-BLDG)**

CHAIRMAN BASEHART: And the final consent item is another subdivision variance.

MR. PUZZITIELLO: Two in a row.

CHAIRMAN BASEHART: I think this is the first one in history that's been on consent.

VICE CHAIRMAN KONYK: Is it?

CHAIRMAN BASEHART: Yeah, the other one wasn't on consent.

MR. CUFFE: It wasn't on consent but you moved --

VICE CHAIRMAN KONYK: It was moved to consent.

CHAIRMAN BASEHART: But he recommended approval, yeah.

VICE CHAIRMAN KONYK: So does he get another certificate?

CHAIRMAN BASEHART: Yeah, we'll have to do that. All right. SD variance 102.

MS. MORTON: Jennifer Morton with Land Design South.

CHAIRMAN BASEHART: Okay. Ms. Morton, we have a supplementary attachment.

Are there conditions here, Dave?

MR. CUFFE: There are no conditions and staff is recommending approval and there have been no letters either way.

CHAIRMAN BASEHART: Okay. Any member of the public here to speak on this item?

(No response.)

CHAIRMAN BASEHART: Seeing none, any Board member feel this needs to be pulled?

VICE CHAIRMAN KONYK: Nope.

CHAIRMAN BASEHART: I didn't think so. Okay. This will stay on consent.

CHAIRMAN BASEHART: That concludes the consent agenda. Now I guess what we need is a motion with the exception of --

VICE CHAIRMAN KONYK: All right. Well, I'm going to start with the first motion and I'll do the one that we're separating first so there's no confusion.

BOFA2001-092 to remain on the consent agenda with the staff report becoming part of the record. That's my motion.

MS. CARDONE: Second.

VICE CHAIRMAN KONYK: Oh, I can't make the motion.

CHAIRMAN BASEHART: No, she's --

VICE CHAIRMAN KONYK: Okay. Never mind. We need to make a motion for BOFA2001-092.

MR. WICHINSKY: So moved.

VICE CHAIRMAN KONYK: Motion by Mr. Wichinsky.

MS. CARDONE: Second.

VICE CHAIRMAN KONYK: Second by Ms. Cardone. All those in favor?

BOARD: Aye.

VICE CHAIRMAN KONYK: Let the record reflect that the motion carried with --

CHAIRMAN BASEHART: And show me abstaining.

VICE CHAIRMAN KONYK: -- with Mr. Basehart abstaining. Thank you, Bob.

CHAIRMAN BASEHART: Thank you.

VICE CHAIRMAN KONYK: Okay. Now I'm going to pass the gavel back to Bob.

CHAIRMAN BASEHART: Okay. Thank you. We're ready for a motion for approval of the remaining consent agenda.

VICE CHAIRMAN KONYK: Okay. I'll make a motion for approval with the staff report becoming a part of the record for BOFA2001-074, 2001-087, 2001-088, 2001-090, 2001-091 and SD-102.

CHAIRMAN BASEHART: Okay. We have a motion by Ms. Konyk.

MR. JACOBS: Second.

CHAIRMAN BASEHART: Second by Mr. Jacobs. All those in favor?

BOARD: Aye.

CHAIRMAN BASEHART: Opposed?

(No response.)

CHAIRMAN BASEHART: Motion carries unanimously. That will conclude the consent agenda, so everybody that was here with an item on consent has been approved and you're free to

l e a v e .  
 Why don't we just wait a minute or two so  
 that the room can clear?

CHAIRMAN BASEHART: Okay. Is the  
 applicant here for Petition BOFA2001-089?

VICE CHAIRMAN KONYK: Mm-hmm.

CHAIRMAN BASEHART: Yes, the applicant is  
 here. Okay. Let's get to the regular agenda.

And the item is -- there's one item on the  
 regular agenda, BOFA2001-089, Willy Guardiola.  
 The applicant is here.

Jon, do you want to introduce this item on  
 to the agenda?

MR. MacGILLIS: Miradieu is going to do  
 it.

CHAIRMAN BASEHART: Or on to the floor?

MR. AUBOURG: Okay. Willy Guardiola,  
 owner, to allow an existing privacy fence along a  
 portion of the east property line to remain at 10  
 feet and to allow a proposed fence along the  
 entire south property line to be 10 feet in  
 height. Location 14640 125th Avenue North,  
 approximately 3.5 miles east of Seminole Pratt  
 and 1.5 miles north of Beeline Highway and the  
 zoning is AR.

CHAIRMAN BASEHART: Okay. Thank you. If  
 the applicant could introduce themselves?

MR. GUARDIOLA: Yes, I'm Willy Guardiola.  
 This is my wife, Trudy Guardiola.

CHAIRMAN BASEHART: Okay. This is a  
 public hearing so we're going to need to ask  
 everyone that intends to speak on this item  
 please rise and raise your right hand so that our  
 reporter can swear you in.

(Whereupon, speakers were sworn in by Ms.  
 Springer.)

CHAIRMAN BASEHART: Okay. I guess what we  
 need to do at this point is ask you to present to  
 us your variance request and the justification  
 you feel that exists for its approval.

MR. GUARDIOLA: Well, first of all here it

says along the entire property line. That's not correct. It's 150 feet that we're going to be putting the fence up there. Okay. So here on the east side instead of the south side. That's the first correction there.

Secondly, basically we just want peace and quiet, a little privacy and we're going to be doing a project come March out in the place where we live. We have a pole barn, a deck, the little walkway and the dock, and we're going to put the fence up and everything at the same time and permit everything at the same time.

CHAIRMAN BASEHART: Okay.

MR. GUARDIOLA: We've been out there now for about four years. We built the log home. It's a three-story 5,000 square foot state of the art log home. It's cost us a little over a half a million dollars to put this out there.

And when we initially bought the property, we come out there and basically met all the neighbors and wanted to see, you know -- Wind in the Pines is a little different than where we're used to living out in Miami. I don't know if anybody's ever been out to Wind in the Pines, Caloosa. It's pretty -- it's country and it's a little different.

You know, basically, we wanted to feel out the area before we built this log home and met most of the neighbors and stuff and said okay, this is where we're going to go. Our next door neighbors are phenomenal. Behind the lake -- we share a lake with Charlie and Jeannie who are super neighbors and the people that were living next to us we barely saw them. In the year and a half that they were there, I think we saw them five times. We've built the home, things have changed in the past year.

Our way of life, we're, you know, very spiritual quiet people. There's two of us living at the house. We like to keep it that way and our way of living and our activities are very peaceful and quiet. The pole barn that was there since we bought the place is basically our center of activities. And in the last 11 months we really haven't been able to spend our time there. It's just been a little too loud for our taste.

And again, it's nothing personal. I'd like to bring this up here. We get along with every neighbor out there.

We spent maybe 30 minutes yesterday driving around in the area looking at all the other types of fences in all the neighborhood out there. We took a bunch of pictures yesterday.

And every neighbor will tell you that basically we have really enhanced the property out there, the whole neighborhood out there.

And we think this fence, and I've talked to quite a few people from the zoning here in the building, and people -- actually the gentleman that used to run this whole area, this whole division, lives two blocks from our house. He's seen the fence and there's quite a few people I've had meetings with here, including Mr. John Meyers who came out there to file the five day warning report and he's seen the fence. And I've had meetings with them.

Another gentleman who's very prominent here, Mr. Kurt Eisman, knows the situation, has spoken to quite a few different people out here and all the fence does is enhance the property, enhance the entire neighborhood and all we want is just peace and quiet. There's nothing personal against any neighbors. I don't want to say another word to any neighbors. I just want to be invisible, and that's basically what we've done.

CHAIRMAN BASEHART: Okay. Well, we kind of need to hone in on the issue here. The Code says that within the setback areas that the height limit is six feet.

Why wouldn't six feet allow you to have a reasonable use and enjoyment of your property?

MR. GUARDIOLA: The way -- we're up on a three story house and to the south of us we have, you know, a lot of nuisance trees. You know, the holly, the Brazilian Pepper and what have you, a lot of weeds and what have you, and it's a six foot fence, board on board, solid fence and on top is a four foot lattice. We've seen this fence basically in Wellington, Royal Palm Beach, Homestead, everywhere. We've taken pictures of this fence.

And we said, okay, this has got to be legal and let's put it out here. It covers a lot of the eyesores that we referred to on the south side there.

On this side here, this fence is going to be eight feet solid board on board with two foot of lattice, which would give us that entire privacy where we will not see any houses, we will not see a garage door opening up or any of the motor vehicles, you know, coming through.

I'm not here to point fingers at anybody. The last thing I want to do is create a problem with the neighbor. We're going to be here for 30 years. And like I said, let me just put this

fence up, state of the art fence. You know, we've already painted everything on all sides. It looks great from all sides.

And you know, we went out yesterday, like I said, and there's probably at least ten fences that we saw in the area between Caloosa and Wind in the Pines that don't meet the code here. Where it says there's supposed to be four feet in the front, they are actually five, five-and-a-half feet. So for us to put something up here which looks great, everybody has seen the picture and seen the fence itself and has said it enhances the neighborhood.

Did we go out and talk to all the neighbors? We don't need to do that, but I can go and talk to 18 neighbors today, this afternoon, and we do have letters from quite a few of them that said, you know, what you have done in four years on this property, taken a lot that was just totally -- I mean, I spent weeks with Richard Kurtz from Solid Waste Management just taking stuff out of this lot that was hazardous material. And you name the vehicle, you name every type of, you know, just so much trash that was thrown out there that we, you know, cleaned everything up.

This fence is definitely going to give us the privacy. And until we're able to put this fence up we're not going to continue with our projects, which is doing a pole barn, the deck, the dock and the walkway. I mean, does it really harm anybody?

I'll just give you an analogy. I'm a basketball referee. That's what I do for a living. I know rules and regulations. I've been doing this for 29 years. We referee basically advantage/disadvantage, okay.

If I apply a rule to every single play in the game of college basketball, you won't have a game. Every single play in a game of college basketball there's an infraction or that a guy carried a ball, a hand check, a bump or whatever. Okay. If we blow the whistle on every play we won't have a game of basketball.

And that's pretty much the analogy to my fence where, what, is this really an advantage? Who's getting an advantage here? If anybody, we're at a disadvantage. This cost us \$12,000 to put this fence up, plus the hardship, all the pictures we've taken and running around town, getting aerial photos, going through the variance process and be here today when she's supposed to be at work and I'm supposed to be at work. So,

you know, we're the ones that are disadvantaged.

I think it's a win/win situation for everybody. All the neighbors are going to, you know, have their privacy now and, you know, I just can't believe moving from Miami to Wind in the Pines that something like that is going to happen.

Again, it's nothing personal against any neighbors and we will not have any words with anybody.

CHAIRMAN BASEHART: Okay. Staff, you want to present your position?

MR. MacGILLIS: I'm going to hand out these. There are two sets of photographs. These photographs are the ones the applicant --

MR. GUARDIOLA: Yeah, I took those.

MR. MacGILLIS: -- submitted so it gives you a better, a clearer idea. Some of the ones in the staff report aren't very clear.

CHAIRMAN BASEHART: Okay.

MR. MacGILLIS: The second set, there are three photographs here, were submitted apparently by the adjacent property owners who are here to speak to us.

CHAIRMAN BASEHART: Okay.

MR. AUBOURG: The subject property is located, as I said before, at 14640 125th Street North. And like he just said that supports a 5,460 square feet of single family dwelling constructed in 2000. What is unique about this lot is because most of the lots in the neighborhood is ten acres. That one is 6.07 acres.

The applicant is requesting from the Board of Adjustment to allow the existing ten foot fence constructed without permit to remain in the rear setback and the rear property line and the proposed ten foot fence to remain on the south property line, which is next door to the neighbor. And the Code allows a six foot fence in the rear and south property line.

The applicant met with staff several times and staff told the applicant that we will not support this variance, and also the applicant is familiar with the Board of Adjustment process because in 1998 he was granted a variance for the pond in the rear setback. So basically he knew what he was doing.

CHAIRMAN BASEHART: Okay. Thank you. Well, are there any -- before we get to questions from the Board, this is a public hearing. So what we'll do is ask anyone from the public that

would like to speak on this item to step forward and give us your name and indicate whether or not you've been sworn in.

MS. SPRINGMAN: Good morning. I'm Sharon Springman (phon.). Yes, I have been sworn in.

CHAIRMAN BASEHART: Okay. You can address the issues and give us your spin on it.

MS. SPRINGMAN: Well, I wasn't aware that he was even considering constructing a fence along the property. I don't have a problem with noise at my property and we are certainly not invading anyone else's property.

The fence, the way the portion that's already been constructed is constructed and painted, quite frankly doesn't fit the environment whatsoever. And I'm not opposed to him having his privacy. He can gain that privacy if he wishes by growth, which he has a hedge there, but keep it green, make it nice between properties.

I have suffered some harassment from Mr. Guardiola for a period of time. I've been on my property since November a year ago and have no problems. There's no hollies, no unsightly trees, shrubs or anything else on the property. And the way Mr. Guardiola was attempting to put the fence down, the property line along my side was right on the driveway inside his fence. And the way my driveway is constructed coming into my properties, I would be driving along a virtual solid wall and it's just -- I oppose it.

My suggestion, I wrote it in my letter was I'm not opposed to a fence, a setback fence with some green on my side because I can't plant anything along my driveway. There's no room the way it was built.

And that's what I have to say.

CHAIRMAN BASEHART: Okay. Any other members of the public like to speak on this item?

(No response.)

CHAIRMAN BASEHART: Seeing none, we'll close the public hearing and we'll move to questions from the Board.

Any Board members have any questions for the staff or of the applicant?

MR. JACOBS: I have a question. Would it be possible to remove the lattice portion of the fence without damaging the lower portion?

MR. GUARDIOLA: Well, the integrity of the fence and the look of it, including the four foot lattice is what makes the fence, you know, gives it its integrity. We've calculated to remove

that fence, you know, the top portion there, is going cost us \$500 just to take the top portion down. Thank you.

About \$500 to take the four foot lattice down and also it will damage, you know, we've got the fence posts and the little things on top, and you know, basically it will damage it and, you know, what do you do with the 200 feet of the lattice? And every one has been individually framed. It cost a lot of money. What do you do with it? Basically it's going to be waste.

We're talking over \$3,000 that will be, you know, thrown out basically for no reason.

MRS. GUARDIOLA: We added that to beautify the fence just so it wouldn't be just fence, blockage, fence. We wanted to make it more prettier (sic). And then we were talking -- our neighbor had made a comment about our neighborhood, how it wouldn't fit into the neighborhood with this fence.

We have some pictures of our neighborhood if you'd like to take a look at them.

VICE CHAIRMAN KONYK: I'll make a motion to accept the pictures into the record.

MR. GUARDIOLA: Let me just --

CHAIRMAN BASEHART: If you show them to us we've got to keep them.

MRS. GUARDIOLA: That's fine. This is how we want to beautify our property. There's several different properties.

MR. GUARDIOLA: The other thing that I may add, the first thing we did ten and a half months ago, we put a six foot eugenia hedge.

Our next door neighbors are doctors or chiropractors who's our doctor, and he owns a nursery. And we put a six foot eugenia hedge all along the entire fence there. It's been up for ten and a half months. We've fertilized it four times, we've trimmed it three times. It's not going to do the trick, you know.

So basically what we want to do over there is put -- on that side there's going to be an eight foot fence with a two foot lattice, which would give us that -- and it only goes for 150 feet. It's not the full 500 feet.

MRS. GUARDIOLA: It's not the whole area of her driveway.

MR. GUARDIOLA: It's 150 feet which will -- standing from our log home from the front door coming out the garage door, you will not see any portion of Sharon's house. And again, there's nothing personal; it's just our own personal thing that we want to do.

VICE CHAIRMAN KONYK: Jon, can I ask a question? If the fence was six feet, it would remain in that location; correct?

MR. MacGILLIS: Yes.

VICE CHAIRMAN KONYK: So that really wouldn't solve the concern that she has about the fence being next to her driveway; if the fence was six feet it would still be there, so.

MR. GUARDIOLA: There's an existing four foot fence now, horse fence, that we put up about two years ago. We don't have horses, we have dogs. The dogs do go under the fence.

VICE CHAIRMAN KONYK: Is this fence that you installed on the property line?

MR. GUARDIOLA: It's on our property line. Everything is as legal as can be --

VICE CHAIRMAN KONYK: Is there any -- it's not legal because you didn't get a permit.

MR. GUARDIOLA: No, we got a permit for the first fence. You know, picket fence, Steve Lamore put up the four foot fence.

What we're doing is adding this other fence on and we're literally nailing it to the existing fence.

VICE CHAIRMAN KONYK: Okay, okay. I just want to ask another question. Is there any reason that you couldn't have offset it on the property line so that the homeowner on the other side could have planted something to hide the fence?

MR. GUARDIOLA: Well, the fence is already there. Our four foot existing fence that was permitted is right on the property line, which is perfectly legal. You know, her driveway --

VICE CHAIRMAN KONYK: Is that on the inside of this fence or on the outside? Is this new fence on her side of it?

MR. GUARDIOLA: The new fence is on our side.

MRS. GUARDIOLA: The new fence is on our side.

VICE CHAIRMAN KONYK: So she sees the four foot fence and then the ten foot fence?

MR. GUARDIOLA: Right. And the hedge is on our side. Like I said, it's about six feet but you can still see everything. Her house sits up pretty high and our house is three stories. So it's up real high.

MRS. GUARDIOLA: She will first see the four foot fence, then our -- the new fence will be like this (indicating). So we're not going anywhere on her side at all.

VICE CHAIRMAN KONYK: Is the four foot

fence her fence?

MRS. GUARDIOLA: No, it's our fence.

MR. GUARDIOLA: It's our fence.

MR. AUBOURG: This is their fence, the four foot fence, that they have. This is the hedge that they are talking about, and the ten foot fence that they want to put, they want to put behind this --

MR. GUARDIOLA: It's on our property between the existing four foot fence and the hedge is basically -- so from our property site you're going to see, you know, the hedge.

VICE CHAIRMAN KONYK: Set it on the floor, I can see it from there.

MR. CUNNINGHAM: I have a question.

MR. GUARDIOLA: I am willing to, you know, to stain it whatever color anybody wants or whatever. It's a natural cedar color. I mean, this is like, you know, and it matches the log home and everything that we're putting out there, and it goes hand in hand. So I mean I'll stain it whatever color anybody wants. The last thing I want is a problem with anybody, honestly.

My wife is a flight attendant. She's home 12 days a month. I'm the one that's home. I work my basketball business out of my home, and all we want is, you know, is peace and quiet.

My mom and dad are moving into our house in about a year, okay. They both have health conditions. They both spend a lot of time -- used to spend time by the pole barn. That's our little recreation area where we read, we take naps, we fish, we barbecue. That's what we used to do. And we no longer do that.

So hopefully when we put this up and we've already planted it and the existing fence that we've got up, we've already planted a bunch of shrubs in front, fishtail palms and white bird of paradise.

VICE CHAIRMAN KONYK: Are we talking about a fence that's already up or are we talking about a fence --

MR. GUARDIOLA: There's two of them.

MR. MacGILLIS: One fence, if you look --

MR. GUARDIOLA: There's one that's up and there's a new one that's coming up.

VICE CHAIRMAN KONYK: Okay. Gotcha.

MR. MacGILLIS: Excuse me for a minute. If you look at the graphic in front of you, what's indicated in orange is what's existing illegally constructed at ten feet.

What's in blue is adjacent to the neighbor who has concerns --

VICE CHAIRMAN KONYK: Oh, okay.

MR. MacGILLIS: -- where he wants to put the ten foot fence up, where he did have a fence already on the property line which he was permitted for --

VICE CHAIRMAN KONYK: So the blue area is the fence that he wants to add and it's the fence that abuts her property.

Why can't you put that new fence in far enough so that this homeowner can plant a hedge?

MS. SPRINGMAN: I can't plant a hedge. Excuse me, I don't have room on my property.

VICE CHAIRMAN KONYK: Oh, it's your property.

MRS. GUARDIOLA: It would be on our property.

VICE CHAIRMAN KONYK: Oh, okay.

MR. GUARDIOLA: The driveway -- the main reason is that the dirt driveway that they have to come into that goes to their house is literally right next to our fence, so you know, it's just dirt.

VICE CHAIRMAN KONYK: But you're putting in a new fence?

MR. GUARDIOLA: Putting in a new fence is going to cut back on all the dirt, the dust, the fumes, the what have you, and the noise level, and the privacy.

VICE CHAIRMAN KONYK: Could you put the new fence far enough away from your old fence so that a hedge could be planted there --

MR. GUARDIOLA: Not on our property because that fence is already there.

VICE CHAIRMAN KONYK: On your own property.

MRS. GUARDIOLA: But we have a hedge on the property.

MR. GUARDIOLA: We have a hedge.

CHAIRMAN BASEHART: Okay. What if --

MR. MacGILLIS: I think to clarify it, that picture in the bottom right-hand corner, you can see the driveway that you see there is the property owner in the audience. That's her driveway.

VICE CHAIRMAN KONYK: And that's the existing fence?

MR. MacGILLIS: Right. That fence that's there is the one that he had legally permitted. It's a chain link fence. Then he planted a eugenia hedge. That blue line is going to be inside of that, so there will be plant material, the eugenia hedge.

VICE CHAIRMAN KONYK: Oh, the eugenia

hedge will be between this fence?

MR. MacGILLIS: Between the existing fence and the proposed ten foot fence, yes. That line -- where the blue line is not exactly -- you're not proposing the fence on the property line.

VICE CHAIRMAN KONYK: Put that picture up and show me where you're going to put the new fence on that bottom right-hand corner.

MR. PUZZITIELLO: It's not in the picture.

VICE CHAIRMAN KONYK: Well, point to it.

MR. SEAMAN: Bottom right hand corner of the picture.

MR. GUARDIOLA: Let me see.

VICE CHAIRMAN KONYK: The bottom right.

MR. GUARDIOLA: This is Sharon's property

--

VICE CHAIRMAN KONYK: No, no. That's your left hand.

MRS. GUARDIOLA: It would be right here, right here. This is her property right here. This is her driveway (indicating).

VICE CHAIRMAN KONYK: Okay. Where are you going to put your new fence?

MRS. GUARDIOLA: Right here (indicating).

VICE CHAIRMAN KONYK: So you're not going to put it on the other side of the hedge?

MR. GUARDIOLA: No. We're going to see the hedge from our property.

MRS. GUARDIOLA: It will be right here. This is our side.

MR. GUARDIOLA: We have the existing fence right now; we're nailing the new fence up to the existing fence so you're going to have one big fence now, and the hedge is on our property exactly 18 inches away from the fence.

MRS. GUARDIOLA: See, this is their driveway right here. This is a grassy area here (indicating).

MR. GUARDIOLA: You probably have enough room to put up --

CHAIRMAN BASEHART: That grassy area is on your neighbor's property?

MRS. GUARDIOLA: This belongs to them (indicating).

MR. PUZZITIELLO: Why can't you put your new fence on the other side of that eugenia hedge, closer in, further into your yard so your neighbor has the eugenia to block out your fence?

VICE CHAIRMAN KONYK: She'll have a buffer from the fence.

MR. GUARDIOLA: On which side now?

MRS. GUARDIOLA: They want us to put it

right here (indicating).

MR. PUZZITIELLO: Other side of the eugenia hedge.

MR. GUARDIOLA: So I won't see it?

MR. PUZZITIELLO: Right.

MR. GUARDIOLA: Well, that defeats the whole thing. We're talking 500 feet of eugenia that I planted myself. I mean, we're talking thousands and thousands of dollars. Now we won't see it. How do we maintain it?

MR. PUZZITIELLO: But you're also --

VICE CHAIRMAN KONYK: But you're impacting your homeowner, so we're trying to take the impact off the homeowner and allow you to do what you want to do.

MR. GUARDIOLA: Right. I mean, I'm willing to do whatever we can do, even if it comes out to Michael, our next door neighbor with the nursery, put some shrubs there or whatever Sharon wants over there.

VICE CHAIRMAN KONYK: But she's saying that she wouldn't have enough room to drive in her driveway. She doesn't want a hedge on her side of the fence.

MR. GUARDIOLA: To be honest with you, I mean, I know that --

VICE CHAIRMAN KONYK: You've already got --

MR. GUARDIOLA: Right now there's a bunch of weeds there is basically what it is between, you know, her property and our property. So I don't know how much room we really have or I haven't really calculated it.

MR. PUZZITIELLO: Why does she need to come out of pocket for something that you want to do?

MR. GUARDIOLA: Well, the thing is we've already put the eugenia hedge. I said, okay, let's see if this works. It's been up for exactly ten and a half months. It hasn't done a thing. All it is is just full of dirt and dust that I've got to clean every month. That's basically it.

So we're trying to keep all that stuff away from us by putting a fence up like that. You know, the four foot fence is up already and you have the ten foot fence behind it.

MS. SPRINGMAN: The driveway is --

CHAIRMAN BASEHART: Wait a minute; this isn't a free for all. Let's keep a little order here.

MR. CUNNINGHAM: Mr. Chairman, will the left side of the Board allow the right side of

the Board to speak?

CHAIRMAN BASEHART: Yes, we will.

MR. CUNNINGHAM: Thank you. I've seen enough.

VICE CHAIRMAN KONYK: It depends on how far right he is.

MR. CUNNINGHAM: In listening to all of this and reading the report, as a Board member I have a problem when we have residents who come before us that have done things illegally, especially where staff has talked to them and obviously it shows Code enforcement has been out there.

I know that the main issue here is you're trying to get a variance for the blue portion, which is also you want it at ten feet. And the ordinance only requires six feet --

CHAIRMAN BASEHART: Only allows six feet.

MR. CUNNINGHAM: Only allows six feet, so you want the additional.

Some of the comments that you made when you started your presentation, I wasn't really impressed with who you know and the way you came on to this Board.

It's obvious that back in '97 you came before this Board for a variance. I believe around the pond had something to do --

MR. SEAMAN: Excavation of the pond.

MR. CUNNINGHAM: Right. So you know where you need to go. After that time you constructed something that was illegal, no permit whatsoever.

Today you come before us to get a variance on a second portion which I don't know where you're at with that orange portion that is there illegal. That's not why we're here today. We're only here really for that blue portion.

VICE CHAIRMAN KONYK: No, we're here for both.

MR. CUNNINGHAM: Both of them?

MR. MacGILLIS: Yes.

MR. CUNNINGHAM: And like I started out saying, you've done it already illegally. Obviously it only allows for the six feet and I think we can sit here all day long.

Some of the things that you were talking about trying to work out, that's really why I feel you should get together with staff and that's why they're here to work with you and to come to some type of an agreement from that standpoint and then for it to come to the Board. We can sit here today till 12:00 and obviously the four feet isn't allowable.

I want to commend you, you have done an

excellent job, yes, of improving the property, but still there are certain restrictions and the restrictions clearly state six feet, and as a Board member I won't be voting for it.

VICE CHAIRMAN KONYK: Is that a motion?

MR. CUNNINGHAM: Yes, a motion.

VICE CHAIRMAN KONYK: Why don't you put it in the form of a motion?

MR. CUNNINGHAM: I put it in the form of a motion to --

VICE CHAIRMAN KONYK: Deny.

MR. CUNNINGHAM: -- deny BOFA2001-089, and my reason mainly is due to the fact that the Petitioner had already started out with the project that was illegal, and I really overall don't really feel that there's any type of a hardship especially that's here.

I do realize in the report you had indicated that your parents won't be able to move in with you in the future. I read that. But I don't see where this is really a hardship case for that reason.

MS. CARDONE: I'll second that as it does not meet the seven criteria.

CHAIRMAN BASEHART: Can you say that again?

MS. CARDONE: I will second that motion as this does not meet the seven criteria.

CHAIRMAN BASEHART: Okay. We have a motion by Mr. Cunningham, second by Ms. Cardone to deny the variance.

I guess that's based at least in part on the staff report and recommendation. Okay. Is there any further discussion required by the Board?

(No response.)

CHAIRMAN BASEHART: Seeing none, we'll vote. Why don't you do a roll call?

MS. QUINN: Nancy Cardone?

MS. CARDONE: I approve the motion to deny.

CHAIRMAN BASEHART: So that's a yes vote?

MS. CARDONE: Correct.

MS. QUINN: Mr. Joseph Jacobs?

MR. JACOBS: Yes.

MS. QUINN: Chelle Konyk?

VICE CHAIRMAN KONYK: Yes.

MS. QUINN: Mr. Ray Puzzitiello?

MR. PUZZITIELLO: Yes.

MS. QUINN: Mr. Glenn Wichinsky?

MR. WICHINSKY: Yes.

MS. QUINN: Mr. Bart Cunningham?

MR. CUNNINGHAM: Yes.

MS. QUINN: Mr. Jonathan Gerber?

MR. GERBER: I don't vote.

CHAIRMAN BASEHART: He's an alternate today.

MS. QUINN: Mr. Bob Basehart?

CHAIRMAN BASEHART: Yes. The motion carries unanimously. Thank you.

#### STAFF RECOMMENDATIONS

**Denial with prejudice**, 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 5.7.3 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:

**NO.** There are **no unique** conditions or circumstances surrounding this property or request that warrant special consideration. This 6.07 acre lot is located at 14640 125th Avenue North at the intersection of 125th Ave. North and 146th Place North, 2 miles north of SR 710 (Beeline Hwy) and 3.5 miles east of Seminole Pratt Whitney Road. The property has a Land Use Designation of RR10 and a Zoning Classification of AR. The lots currently support 5,446 square foot family residence, a 38'x28' pole barn and a pond. Surrounding the property there is an existing 4' C/L fence (PR 99 034831). Most fences on this area are 4' high (chain link or wood) on the property line with mature native landscaping (Slash pine) behind them, which is permitted by code. The applicant is proposing the existing 10 foot high wood fence to remain along the rear property line for a distance of 200 feet. The impact of this non-conformity fence is that the existing

and proposed 10' fence in the rear and side setback **would not** be in keeping with the character of the rural neighborhood and **will not meet** the intent of the Code fence height limitation which is to avoid a "wall" type character in the AR District supporting single family dwelling.

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

**YES.** The applicant was granted a variance for a pond into the rear setback on November 1998 (BA98-090) before the construction of his single family dwelling in 2000. The applicant constructed illegally the existing 10' fence along the rear property line for a distance of 220' according to the survey without permit. The applicant has already been in the process of a variance in Palm Beach County and was aware that a building permit is required prior to installing any type of fence on the property. In addition, the applicant was issued a permit for the existing 4' chain link fence around his property on October 1999 (PR034831). The request to maintain and propose a 10' along the property lines is not consistent with the code or neighborhood. The applicant has other options to accomplish his goal to buffer the adjacent property. The 6' solid fence is permitted along the property line, also, supplementing the existing native vegetation with a hedge is permitted and would buffer the adjacent lot.

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

**YES.** Granting the variance **will confer** the applicant a special privilege denied by the Comprehensive Plan and this Code to other parcels of land in the same Zoning District. A 10' fence constructed along the rear and side property line would not be in keeping with the rural character of the subdivision. Many other parcels in

the neighborhood have a 4' fence surrounding their property. The requested variances are not compatible with the provisions of the ULDC Code and Comprehensive Plan which encourage structures (including fences) to be in harmony with the neighborhood. The applicant's primary justification for the 10' fence is to mitigate the negative aspect associated with the property owner to the south as well as noise and dust. The installation of a hedge inside the 6' fence would address the concern and comply with the Code.

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:

**NO.** 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. The strict interpretation of the terms of the Code is that a fence placed in the rear and side property line does not exceed a maximum of 6' high. However, staff informed the applicant that he can maintain a 6' fence at the rear and side yards and supplement the fence with a hedge maintained at 8'. A literal interpretation of the ULDC Code requirement **would not** be an unnecessary and undue hardship because the existing wood fence constructed illegally in the rear side of the property is 6' with 4' lattice on the top which can be easily removed by the owner without damaging the structure of the fence.

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

**NO.** The variance **is not** the minimum variance that would allow a reasonable use of the property. As previously stated, the existing 10' fence is in conjunction

with a 4' fence along the rear property line and adjacent to rear property line is lot 113 which supports a single family dwelling constructed in 1997. The applicant constructed the 10' fence illegally along the property line. Before he started the construction of the proposed fence along the south property line, a complaint (C0110230002) was filed to Code Enforcement. Staff suggested two options to the applicant in order to meet the ULDC Code provision for fence height. The applicant has options to meet the code: remove the 4' wood lattice on the top of the existing 10' fence, install hedges along or adjacent to lot line to a height not exceeding 8'. This will mitigate many of the issues stated by the applicant as the justification statement for the fence. As previously stated, there is an existing 6' high hedge along the entire south property line. The approval of this variance is not consistent with the rural character of and quality of life in this neighborhood.

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

**NO.** Granting of the variance request **is not** consistent with the purpose, objectives and policies of the Comprehensive Plan and this Code because it would cause a detrimental impact on the neighborhood in general. The principal goal of the Comprehensive Plan and the ULDC is to maintain consistency and harmony of urban character throughout the neighborhood. The granting of this fence variance in the Wind in the Pines subdivision would contribute to a neighborhood inconsistency with respect to fence height. The intent of the ULDC Code requirement is to ensure fence provides buffering while not creating a wall that obstructs air and light.

7. THE GRANT OF THE VARIANCE WILL BE  
I N J U R I O U S

TO THE AREA INVOLVED OR OTHERWISE  
DETRIMENTAL TO THE PUBLIC WELFARE:

**YES.** The granting of this variance **will be** injurious to the area involved. A 10' fence is not consistent with existing fences in the rural subdivision. The 4' foot lattice on the top of the 6' fence will not provide the barrier for noise, dirt and dust anticipated by the applicant in the justification for the variance. Approval of the variance request would send a negative message to the neighborhood that PBC supports the construction of 10' high fences along the rear and side property line in the AR Zoning District. If the residents were allowed to construct fences without restrictions, the character of this neighborhood would be compromised. The Code limitation is to discourage this effect and to encourage residents to explore other options to secure and enhance their properties. The applicant has not complied with the seven criteria required for approval of the requested variances.

#### **ENGINEERING COMMENT**

No comments. (ENG)

#### **ZONING CONDITIONS**

To be determined by the Board's motion.

CHAIRMAN BASEHART: That will conclude the business on the regular agenda.

Next item is our attendance report. At the November meeting actually we had a full board, and Mr. Misroch was not here and Mr.

Gerber was not here because their attendance was not required, and everybody else was. So we don't need to excuse any absences today.

One final matter before we adjourn this meeting. I believe most of the Board members know that today is Mr. Wichinsky's last meeting. He's resigned from the Board and --

MR. WICHINSKY: Actually, I didn't seek reappointment.

CHAIRMAN BASEHART: Okay. But your appointment isn't up until February.

MR. WICHINSKY: No, I was told it was up this month.

CHAIRMAN BASEHART: Really? Okay.

VICE CHAIRMAN KONYK: Is that correct? That's weird.

CHAIRMAN BASEHART: Okay. Then Mr. Wichinsky's term was up and he did not seek reappointment.

I'm personally really sorry to see you leaving the Board. You've been on the Board a real long time and you've been a great member. You understand the Code and you understand the issues, and I think you've done a great service not only to the Board but to the County as well and to the citizens of the County, and I'm going to miss you but I hope we still see you socially.

I understand you're leaving because your business commitments are going to keep you out of the area a lot and you wouldn't be able to have very much attendance here at the Board. So I really hate to see you go and it's been a real, real pleasure to work with you on this Board, and good luck in the future.

And as a token of our appreciation, the Board would like to present you with a certificate.

VICE CHAIRMAN KONYK: Wow, 1991, ten years.

MR. WICHINSKY: Thank you very much. I appreciate it.

VICE CHAIRMAN KONYK: You graduated.

CHAIRMAN BASEHART: Any other members want to say --

MR. WICHINSKY: Well, actually, let me respond to you, Bob. I've been here a long time, but Bob's been here longer.

VICE CHAIRMAN KONYK: Bob's older.

CHAIRMAN BASEHART: I came with the place.

MR. WICHINSKY: Actually, when I was first appointed to the Board by Carol Phillips, who preceded Burt Aaronson, I think Bob was on the

Board and Jon was working with the Zoning Division for a short while. And I was thinking back this morning as I was coming up here of a couple of memorable moments and I just want to share it with you.

My first meeting I was appointed at the same time as another gentleman named Ramsey Samurai (phon.). I don't know what district he represented, but I recall the first two statements that either I made or Ramsey did, and I'll just share it with you briefly.

One of our first variance petitions I responded to the staff and I said, you know, I don't think we've got the jurisdiction to grant variances on this Board, and I saw Jon's eyes starting to roll like, okay, we've got a new guy coming in, we've got to break him in.

And at the same time we had a petition where this gentleman Ramsey was next to me. It had to do with putting up a barbed-wire fence around a development that was having theft problems. And after I made my learned statement, Ramsey was stating, well, I think you should have barbed-wire fences around your compound, plus I think you should all carry guns.

So you never --

VICE CHAIRMAN KONYK: He's from  
A f g h a n i s t a n .

MR. WICHINSKY: So I just wanted --

CHAIRMAN BASEHART: Then he handed out applications to the NRA.

MR. WICHINSKY: He was a member of the NRA, but anyway, there's some humorous moments, but for the most part, for really the entire part, it's been a great experience and I've enjoyed working with staff guiding me and us through some uncharted waters because we're not all in the industry and we're not zoning experts, and I appreciate all the hard work and effort and the balance that you have to strike all the time knowing what the code says and what life is all about and where you give and take.

And also, my fellow Board members, the comraderie that you've shown has just been truly appreciated. With our varying personalities we all know how to do the right thing. So thank you again.

CHAIRMAN BASEHART: Thank you.

VICE CHAIRMAN KONYK: Thank you, Glenn.

MR. WICHINSKY: I'll come back and visit. Oh, yeah, what about my gas reimbursement?

MR. MacGILLIS: We have a card here that people signed that we would like to present to

you. Every board member signed it.

On behalf of staff, we would just like to say how much we appreciate all your work on this Board over the last ten years.

MR. WICHINSKY: Thank you very much. I appreciate it. And happy holidays, guys.

CHAIRMAN BASEHART: You, too. Next item?

VICE CHAIRMAN KONYK: Now, Bob, how many years have you been on the Board?

CHAIRMAN BASEHART: Sixteen.

VICE CHAIRMAN KONYK: That's scary.

MR. MacGILLIS: Alan wants to get a picture of the whole board here. And we won't do nasty things to it in our office.

CHAIRMAN BASEHART: That's --

VICE CHAIRMAN KONYK: I hadn't thought about that.

CHAIRMAN BASEHART: That's the problem with digital cameras; you never know what's going to --

MR. SEAMAN: I can't get you all in.

VICE CHAIRMAN KONYK: Well, come squeeze in.

CHAIRMAN BASEHART: Come on everybody, move in.

MS. CARDONE: Do you want to come in from the sides or do you want to --

MR. WICHINSKY: I don't think you can do that. You're going to have to go to the back of the room.

MR. SEAMAN: Can you get behind him, then it'll be a nice balance.

MR. PUZZITIELLO: I can do that.

MR. SEAMAN: I'm going to zoom in and try to get your faces.

VICE CHAIRMAN KONYK: Not too close.

MR. SEAMAN: All right, you guys, say cheese. One more.

MR. PUZZITIELLO: You do this at a lot of parties, don't you?

MR. SEAMAN: I'm not used to digital. Okay. Say cheese or whatever.

CHAIRMAN BASEHART: Say zoning. Okay.

So we don't have to stay here for the rest of the year, anybody want to make a motion to adjourn?

MS. CARDONE: So moved.

MR. PUZZITIELLO: Motion to adjourn.

CHAIRMAN BASEHART: We have a motion and let's just call it a unanimous second. We're adjourned.

MR. SEAMAN: Happy holidays, everyone.

(Whereupon, the meeting was adjourned at  
10:00 a.m.)

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C E R T I F I C A T E

THE STATE OF FLORIDA )

COUNTY OF PALM BEACH )

I, Sophie M. Springer, Notary Public, State of Florida at Large,

DO HEREBY CERTIFY that the above-entitled and numbered cause was heard as hereinabove set out; that I was authorized to and did report the proceedings and evidence adduced and offered in said hearing and that the foregoing and annexed pages, numbered 4 through 54, inclusive, comprise a true and correct transcription of the Board of Adjustment hearing.

I FURTHER CERTIFY that I am not related to or employed by any of the parties or their counsel, nor have I any financial interest in the outcome of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 8th day of January, 2002.

\_\_\_\_\_  
Sophie M. Springer, Notary Public.