

PALM BEACH COUNTY
BOARD OF ADJUSTMENT

Thursday, December 19, 2002
9:00 a.m. -10:18 a.m.
100 South Australian Avenue
West Palm Beach, Florida

Reporting:

Shirley King
Notary Public

ATTENDEES

Chelle Konyk, Chair

Robert Basehart, vice Chair

William Sadoff

Raymond Puzitiello

Bart Cunningham

Nancy Cardone

David Cuffe, Civil Engineer II, Land Development

Annie Helfant, Asst. County Attorney

Alan Seaman, Senior Planner, Zoning

Damon Kolb

Miradieu Aubourg, Jr., Planner I

Annette Stabilito, Secretary

Juanita James, Secretary

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MS. STABILITO: I'd like to call to order the Palm Beach County Board of Adjustment meeting of December 19th, 2002 and start with the roll call.

William Sadoff.

MR. SADOFF: I'm here.

MS. STABILITO: Raymond Puzzitiello.

MR. PUZZITIELLO: Here.

MS. STABILITO: Bart Cunningham.

MR. CUNNINGHAM: Here.

MS. STABILITO: Chelle Konyk.

CHAIRWOMAN KONYK: Here.

MS. STABILITO: Robert Basehart.

(No response.)

MS. STABILITO: Nancy Cardone.

(No response.)

MS. STABILITO: Joseph Jacobs

(No response)

MS. STABILITO: Stanley Misroch.

(No response.)

MS. STABILITO: Donald Mathis.

(No response.)

CHAIRWOMAN KONYK: We have a quorum and we have proof of publication in the Palm Beach Post on December 16th.

Remarks of the chairman: For those of you who are not familiar with how the Board conducts its business, the hearing is divided into two parts, the consent and the regular agenda. Items on the consent agenda are items that have been recommended for approval by staff, with or without conditions, the applicant agrees with the condition and there's no opposition from the public and no board member feels the item warrants a full hearing. If your item remains on consent, you will be free to go after we vote on the consent. If any member of the public objects or the Board feels the item warrants a full hearing or if the applicant does not agree with the conditions, your item will be reordered to the regular agenda.

Items on the regular agenda are items that have been either recommended for denial by staff or the applicant does not agree with the conditions, there's opposition from the public, or the Board member feels the items warrants a full hearing.

Items on the regular agenda will be introduced by staff. The applicant will have an opportunity to give their presentation, staff will give their presentation, at this point we'll hear from the public. After the public portion of the hearing is closed, the Board will vote on the item.

Next item on the agenda is the approval of the minutes of the November meeting. Everybody received their copy of the minutes. Does anybody have any corrections or additions?

(No response.)

CHAIRWOMAN KONYK: Seeing none, can I have a motion for approval?

MR. CUNNINGHAM: So moved.

CHAIRWOMAN KONYK: Motion by Mr. Cunningham.

MR. PUZZITIELLO: Second.

CHAIRWOMAN KONYK: Seconded by Mr. Puzzitiello. All those in favor?

BOARD MEMBERS: Aye.

CHAIRWOMAN KONYK: Motion carries unanimously. The Next item is the remarks of the zoning director.

MR. SEAMAN: No, there are none.

CHAIRWOMAN KONYK: Are there any changes to the agenda?

MR. SEAMAN: No there are not.

CHAIRWOMAN KONYK: Then we'll move forward with the agenda.

First item on the agenda is postponed items. 2002-071, postponement for 90 days. Is this by right?

MR. SEAMAN: It's more than 30 days so it's not by right, so you need to vote on it.

CHAIRWOMAN KONYK: Is there any member of the public here to speak on this item?

MR. CICKLIN: My name is Allen Cicklin and I represent the

applicant, but B

CHAIRWOMAN KONYK: No member of the public is here. Do we have any letters objecting?

MR. SEAMAN: No, there are none.

CHAIRWOMAN KONYK: Any member of the Board feel that this item should not be granted a postponement?

(No response.)

CHAIRWOMAN KONYK: Could we have a motion to postpone 2002-071 for 90 days?

MR. SADOFF: So moved.

CHAIRWOMAN KONYK: Motion by Mr. Sadoff.

MR. CUNNINGHAM: Second.

CHAIRWOMAN KONYK: Seconded by Mr. Cunningham. All those in favor?

BOARD MEMBERS: Aye.

CHAIRWOMAN KONYK: Motion carries unanimously. This item will be postponed until, what, March?

MR. SEAMAN: March.

CHAIRWOMAN KONYK: First item on the consent agenda is 2002-079, Kevin McGinley, to element the fence requirement with the incompatibility buffer.

Is the applicant present?

MR. MCGINLEY: Yes, ma'am. For the record, Kevin McGinley.

CHAIRWOMAN KONYK: Staff has recommended two conditions. Do you understand and agree with those?

MR. MCGINLEY: Yes we do.

CHAIRWOMAN KONYK: Is there any member of the public to speak on this item?

(No response)

CHAIRWOMAN KONYK: Any letters?

MR. SEAMAN: There is one letter and it's simply a request that a fence be put up between the nursery and the temple.

CHAIRWOMAN KONYK: Does it relate to this?

MR. SEAMAN: Yeah, it does. It's not -- CHAIRWOMAN KONYK: Well, is the person here?

MR. SEAMAN: The person is not here. We don't feel it's significant enough that you need to bring it up.

MR. MCGINLEY: For the record, I met with them on Tuesday and hopefully we're going to come to an accord. He understands the situation.

CHAIRWOMAN KONYK: Any member of the Board feel this items warrants a full hearing?

(No response)

CHAIRWOMAN KONYK: Seeing none, 2002-079 will remain on consent.

MR. MCGINLEY: 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.E VARIANCE STANDARDS

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

Special conditions exist that are unique to the land. The

site's required 10-foot wide incompatibility buffer extends along the north, south and west property lines. This buffer along with the 6-foot solid concrete wall (presently under construction by the residential subdivision to the south) and the 25-foot buffer within the existing PUD to the west; and the significant 8-10 foot tree/palm/hedge buffer to the north at the nursery, provides significant screening to meet the intent of the ULDC, installing an additional 6-foot fence for privacy and screening in the buffers becomes unnecessary and redundant. The nursery to the north itself consists of trees and shrubs and requiring a 6-foot fence to screen plant materials from the Temple seems unreasonable.

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

The special circumstances are not the result of actions taken by the property owner, but are the outcome of development activity by the parcel of land adjacent to the Temple. The PUD residents to the west prefer that the subject site eliminate the 6-foot fence and allow trees and shrubs to meet their view to the east instead.

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, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

Granting the variance will not confer special privilege upon the Applicant. A solid wall will still separate the subject property from the property to the south. The existing open space area in the western portion of the subject property will buffer the residential homes to the west. The installed landscape will buffer the agricultural nursery to the north.

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

The literal interpretation of the ULDC provisions governing perimeter landscaping did not take into consideration the perimeter landscaping of properties abutting a nursery to a place of worship. A 6-foot wall and a 6-foot fence, therefore, could be required side by side with an unused strip of land in between; an illogical situation causing unnecessary redundancy and expense. In addition, a ULDC requirement for an incompatibility buffer and an opaque fence to screen a place of worship from a plant nursery is arguably excessive.

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

Granting the variance request for the elimination of the wall is the minimum variance that will make possible the reasonable use of the site. All other perimeter buffer requirements of the ULDC and BCC conditions of approval have been installed and will be maintained.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES

OF THE COMPREHENSIVE PLAN AND THIS CODE:

The requested variance is consistent with the comprehensive plan and purpose and intent of the ULDC as it results in a remaining landscape buffer to screen the existing place of worship from adjacent residential and agricultural uses without redundancy.

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

Granting of the requested variance will not be detrimental to the public welfare because the variance is to eliminate redundancy but not the screening intent of the ULDC. The landscape materials in the incompatibility buffer will grow and continue to increase in screening ability.

ENGINEERING COMMENTS

No comments

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on December 19, 2003 one, one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring.

(DATE: MONITORING-ZONING)

2. The applicant shall install a 6-foot fence within the north incompatibility buffer in the event the plant nursery to the north shall cease operation for 6 months or more. The applicant shall at the 6-month expiration date have 60 days in which to install the 6-foot fence; or in the event the property to the north is developed as a residential development the applicant shall be responsible for installing the 6-foot fence prior to the county issuing the first building permit within the residential development to the north.

(DATE: ONGOING-LANDSCAPING)

CHAIRWOMAN KONYK: Next item on consent is 2002-080. Let the record reflect that Mr. Basehart and Ms. Cardone have arrived.

2002-080, Anne Hocter, agent for Bo and Eileen Lindstrand, to allow a proposed garage and porch to encroach into the required front setback.

Name for the record.

MS. HOCTOR: For the record, Anne Hocter. CHAIRWOMAN KONYK: Staff has recommended for conditions. Do you understand and agree with those?

MS. HOCTOR: Yes we do.

CHAIRWOMAN KONYK: Any member of the public here to speak on this item?

(No response)

CHAIRWOMAN KONYK: Any letters?

MR. SEAMAN: There are two letters and they were just for clarification.

CHAIRWOMAN KONYK: Any Board Member feel this item warrants a full hearing?

(No response)

CHAIRWOMAN KONYK: Seeing none, this item will remain 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.E VARIANCE STANDARDS

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

YES. There are special circumstances and conditions that are peculiar to the parcel of land. The subject lot is a triangular shaped lot created in the 1960=s. As stated in the staff summary, in the late 1980=s Prosperity Farms Rd. was placed on the County=s Thoroughfare Map and a Base Building line requirement was established 22= beyond the front property line, therefore, setbacks for new construction into the front yard are now taking from the BBL instead of the front property line. Granting the requested variances will not give any special privileges to the applicant since others dwellings constructed before the establishment of the BBL are closer to their property lines.

2. SPICAL 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. A BBL was imposed on the property for potential right-of-way widening, also there are no other design options available to the applicant since this is a irregular shaped lot with drain field on the north side of the SFD.

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

NO. As stated in the applicant=s justification statement, the applicant intend to convert the existing garage to a mother-in-law quarters for their elderly parents and construct a covered entranceway for weather protection. The applicant is requesting two variances for distance similar to other SFD constructed before the establishment of the BBL. The applicant has no other design options available since this is an irregular shaped lot with drain field on the north side of the SFD. Granting the variances would not affect front setback continuity in the surround area.

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

YES. The Current Code requires a 25= front setback for structures in RS Zoning district. If the proposed garage and entrance way were constructed at the same time as the

principal dwelling in 1971 or before the establishment of the BBL in the late 1980s, no variances would be required. The applicant will not encroach into the reserved area for potential right-of-way widening. Denial the requested variances will deprive the applicant of rights commonly enjoyed by other parcels of land in the same district.

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

YES. The proposed variances are the minimum variances necessary to allow the property owner a reasonable use of the parcel. The property owner is limited in alternative design options due to the layout of the lot, therefore, the applicant is left with no other options than requesting the variances described in the supplemental application.

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 requesting variances will be consistent with the objectives of the Unified Land Development Code. The intent of maintaining setbacks is to ensure uniformity and protect adjacent property owners while maintaining property values. If the requested variance is granted the proposed garage will be setback at 25.1 feet from the front property line and approximately 31 feet from the existing edge of the pavement along Prosperity Farms Rd.

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

NO. the grant of the variances will not be injurious to the area. The proposed garage will be fully landscaped by an existing 6-foot ficus hedge located along the front property line, which will mitigate any negative impacts that will be associated with the requested variances. By looking at the applicant pictures staff can clearly see that the proposed covered front porch will be approximately setback at the same distance of other dwellings in the neighborhood constructed before the establishment of the BBL.

ENGINEERING COMMENTS

No comments

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on December 19, 2003 one, one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring. **(DATE: MONITORING-ZONING)**
2. By June 19, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the site Plan (Exhibit 13) present to the Board, simultaneously with the building permit application. **(DATE: ONGOING-LANDSCAPING)**
3. By September 19, 2003, the applicant shall obtain a building permit for the proposed garage and entrance way in order to vest the variance approved pursuant to BA2002- 808 **(DATE: MONITORING-BLDG PERMIT.)**

4. The variance request is only for the front setback for the proposed garage and entrance way. Any additional improvements must meet required setbacks. (ONGOING).

CHAIRWOMAN KONYK: The next item on consent is Board of Adjustment time extension, 2002-081. These four conditions, I'm sure, are the original four conditions? Nothing new, right?

MR. SEAMAN: Nothing new.

CHAIRWOMAN KONYK: Name for the record.

MR. BARKES: Michael Barkes.

CHAIRWOMAN KONYK: This wasn't advertised so there's no more letters, right?

MR. SEAMAN: No letters.

CHAIRWOMAN KONYK: Any member of the public here to speak against this time extension?

(No response)

CHAIRWOMAN KONYK: Any Board Member feel this warrants a full hearing?

(No response)

CHAIRWOMAN KONYK: Seeing none, Board of Adjustment time extension 2002-081 will stay on consent.

STAFF RECOMMENDATIONS

Staff recommends a time extension for both condition 2 and 3 for 6 months from October 20, 2002 to April 20, 2003, consistent with Article 5.7.H.2 of the ULDC, to provide additional time for the petitioner to engage a new contractor. The applicant shall comply with all previous conditions of 2002-039, unless modified herein:

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on July 18, 2003 one, one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring.
(DATE: MONITORING-ZONING)
2. By October 20, 2002, the applicant 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 **(DATE: MONITORING-BLDG PERMIT)**

IS HEREBY AMENDED TO READ:

By April 20, 2003, the applicant 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 **(DATE: MONITORING-BLDG PERMIT)**

3. By January 17, 2003, the applicant shall obtain a building permit for the proposed swimming pool in order to vest the variance approved pursuant BA 2002-039
(DATE: MONITORING-BLDG PERMIT)

4. This variance request is only for the rear and side interior setback for the proposed swimming pool. Any additional improvements must meet required setbacks. **(ONGOING)**

CHAIRWOMAN KONYK: Next item on consent is 2002-082, Charles and Pamela Boice, owners, to allow a proposed addition to encroach into the required front setback.

Your names for the record?

MR. BOICE: Charles Boice.

CHAIRWOMAN KONYK: Staff has recommended three conditions. Do you understand and agree with those?

MR. BOICE: Yes, ma'am.

CHAIRWOMAN KONYK: Any member of the public here to speak on this item?

(No response)

CHAIRWOMAN KONYK: Any letters?

MR. SEAMAN: There are four letters, two approval, one disapproval, one clarification. The disapproval, they don't give any reason.

CHAIRWOMAN KONYK: Any member of the Board feel this item warrants a full hearing?

(No response)

CHAIRWOMAN KONYK: Seeing none, this item will remain on consent. Thank you.

MR. BOICE: 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.E VARIANCE STANDARDS

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

YES. There are unique circumstances applicable to the subject property. The lot is an irregular shape, with 98 feet of frontage, and 63 feet along the rear property line. The residence was constructed parallel to the west side property line, and in turn is not centered on the site. In addition, the required setback is measured from the front property line, which is 20 feet beyond the edge of the roadway (Leeward Way), for an actual setback from the roadway of over 40 feet.

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

NO. the applicant is attempting to construct an addition that conforms with the existing structure and the character of the area. Due to the lot configuration, the SFD was constructed

with front setbacks that range from 29.7 feet to 34 feet. A portion of the proposed addition would encroach 2.53 feet into the required front setback. The requested variance will allow the applicant to construct an addition that aligns with the existing residence.

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, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

NO. Granting the requested variance will not confer a special privilege to the applicant. The intent of the ULDC front setback requirement is to ensure uniformity along the street, provide a safe distance from the roadway, and to ensure privacy for the dwelling unit. The applicant will meet the intent of the front setback requirement if the proposed variance is granted.

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

YES. Denial of the requested variance would be an undue hardship to the applicant. The requested variance meets the intent of the front setback requirement, and will be consistent with all other ULDC requirements. The proposed addition will provide the owner with increased living space to a house constructed in 1965. The proposed addition will complement the SFD and surrounding residential area.

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

YES. The applicant has considered several design options for the proposed addition. The final design requires the minimum variance necessary to accommodate a reasonable expansion of the SFD. The proposed addition will be setback at least 40 feet from the roadway and 22 feet from the front property line.

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 requested variance will be consistent with the Plan and the ULDC. The intent of the ULDC front setback requirement is to ensure uniformity along the street, provide a safe distance from the roadway, and to ensure privacy for the dwelling unit. The applicant will meet the intent of the front setback requirement if the proposed variance is granted.

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

NO. Granting the requested variance will not be injurious to the surrounding area. The applicant has designed the addition to comply with the required side interior setback adjacent to another SFD. The proposed addition will be setback at least 40 feet from the roadway and 22 feet from the front property line. The requested variance will allow the

applicant to construct an addition that aligns with the existing residence and is consistent with the surrounding residential neighborhood.

ENGINEERING COMMENTS

No comments

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on December 19, 2003 one, one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring.
(DATE: MONITORING-ZONING)
2. By June 19, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application.
(DATE: MONITORING-BLDG PERMIT)
3. By September 19, 2003, the applicant shall obtain a building permit for the proposed room addition in order to vest the variance approved pursuant to BA 2002-082
(DATE: MONITORING-BLDG PERMIT)

CHAIRWOMAN KONYK: The next item on consent is 2002-083, Cindy Maier, owner, to allow an existing residence and carport to encroach into the required front setback.

Your name for the record?

MS. MAIER: Cindy Maier.

CHAIRWOMAN KONYK: The staff has recommended three conditions. Do you understand and agree with those?

MS. MAIER: Yes.

CHAIRWOMAN KONYK: Any member of the public here to speak on this item?

(No response)

CHAIRWOMAN KONYK: Any letters?

MR. SEAMAN: We have two, one approval, one clarification.

CHAIRWOMAN KONYK: Any member of the Board feel this item warrants a full hearing?

(No response)

CHAIRWOMAN KONYK: Seeing none, this item remains on consent.

You can have a seat. And then when we vote on this, she'll give you your letter.

STAFF RECOMMENDATIONS

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

ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

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

YES. There are unique circumstances applicable to the subject property. The current property owner purchased the SFD in 1988, unaware that the front portion of the SFD and sheds, were not setback properly from the property lines. Since 1988, several permits were issued (roofing, electrical service and plumbing) to the property owner and the setback was not question by the Building Department.

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

NO. As stated above, the applicant purchased the SFD in 1988, unaware that the carport and portion of the SFD and sheds were not setback properly from the property lines. The applicant states that she was not able to find the building permit for the SFD constructed in 1962. staff also researched through the Building Record Department and was not able to find any permits related to the SFD. The oldest permit found by staff for the subject site is for the existing swimming pool, construct in 1973.

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, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

NO. Granting the requested variance will not confer a special privilege to the applicant. The existing carport, and portion of the living area in the front yard, has been in the same location for more than 30 years, according to the applicant. The applicant is requesting the existing 14' X 8' wood shed located at 2.7' to the rear property line and 3' to the side interior property line, (south side) to remain in its current location. Adjacent to the rear property line (east) is Taylor Lane. The (south) side interior, there is an existing 6' chain link fence (combined with fiber glass panel and plant material) to mitigate the 2' encroachment.

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

YES. Denial of the variance would require the applicant to remove a portion of the existing carport and the existing living area in the front setback, depriving the applicant of the use of such structures. The rear, the applicant would have to remove several mature palm trees and one mango tree. Therefore, a literal interpretation of the ULDC would be an undue hardship to the applicant.

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

YES. The subject lot has a rectangular shape, with a depth of 199.98' and a width of 100'. The lot supports an approx. 1852 sq/ft SFD, an existing 112 sq/ft wooden shed and an existing 81.6 sq/ft aluminum shed located in the north side of the principal, which the applicant agrees to remove in its current location. The lot also supports a 15' X 38' swimming pool with a 10.3' concrete deck. There is an existing 6' high chain link

fence surrounding the rear property supplemented fiber glass panel and plant vegetation, therefore, creating a privacy buffer to reduce any impact on the adjacent property owners. According to the applicant, the front setback variance of 4.7= (if granted) will not be noticeable by the general public, since the carport and portion of the SFD have existed for more than 30 years.

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

YES. The request will meet the general intent of the Code. The Code requires a 25= front setback for the SFD, the applicant is proposing 20.3= setback. To the front of the subject property, there is also a 20= road easement which mitigates the 4.7= requested variance. To the rear, the shed is required to be 5= from property lines. The requested variance will meet the intent of the code, since adjacent to the rear property line is Taylor Lane and to the side interior, exists the 6= chain link fence with fiber glass panel, which will mitigate the 2= encroachment proposed by the applicant.

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

NO. The variance request will not be injurious or detrimental to the area of public welfare. To the rear; the adjacent property owner's privacy will be provided by the existing 6= chain link fence, already supplemented with fiber glass panel and plant material. To the front; the carport and portion of the existing SFD has existed for several years and will not be noticeable by the general public if the variance is granted.

ENGINEERING COMMENTS

No comments

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on December 19, 2003 one, one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring.
(DATE: MONITORING-ZONING)
2. By January 19, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result Letter and revised survey in order to obtain the final Certificate of Occupancy for the addition.
(DATE: ONGOING-LANDSCAPING)
3. By January 19, 2003, the applicant shall relocate the existing 9.6= X 8.5= Aluminum shed shown on the survey five (5) feet from the north property line in order to vest the variance pursuant to BA2002-083
(DATE: MONITORING-BLDG PERMIT.)

CHAIRWOMAN KONYK: Next item on consent is 2002-084, Kilday and Associates, agent for Palm's West Hospital, to exceed the maximum sign face area allowed.

And your name for the record?

MS. WALTER: Good morning. Collene Walter with Kilday and Associates.

CHAIRWOMAN KONYK: Staff has recommended one

condition. Do you understand and agree with that?

MS. WALTER: Yes we do.

CHAIRWOMAN KONYK: Any member of the public here to speak on this item?

(No response)

CHAIRWOMAN KONYK: Any letters?

MR. SEAMAN: There is one letter, who is giving approval, but they're asking for us to put conditions on the project, which really are not written by the variance, so they're irrelevant. CHAIRWOMAN KONYK: Any member of the Board feel this item warrants a full hearing?

(No response)

CHAIRWOMAN KONYK: Seeing none, this item remains on consent.

MS. WALTER: 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.E VARIANCE STANDARD

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

The special circumstance unique to this site is its size and the fact that it supports many separate medical related uses in various locations on the overall medical campus. The overall campus is comprised of over 400,000 square feet of medical uses. As a result, this can be confusing to the users who are seeking medical assistance unless there is clear and adequate signage to direct them to the various services. In addition, the hospital, not unlike most, has Emergency/Trauma facilities that increase the need for efficient on-site signage. The main hospital building (the subject of this variance) is over 500 feet from the centerline of Southern Boulevard. Due to this distance, it is crucial for the signage to be of adequate size in order to be seen from Southern Boulevard. Vehicles approaching the Hospital from the east and west on Southern Boulevard must be able to identify the hospital campus. The wall of the hospital (ER expansion/Trauma unit) is approximately 241 feet in width along the east elevation however; the only viable location for its signage is on a narrow 46-1@wing (recessed/projection area) of the wall. There is no other area on the wall that could accommodate the sign due to window openings; this location is the only blank area on the wall. The same situation exists on the south elevation.

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

The special circumstances and conditions are not the result of the applicant. The subject site supports a large regional hospital (including an Emergency/Trauma facility) that serves the growing population in the Western Communities (Royal Palm Beach and Loxahatchee). The hospital is the

only facility of its kind to serve the royal Palm Beach and Loxahatchee residents. Overall the hospital is comprised of over 300,000 square feet. Also located on the Campus are numerous other medical office buildings and auxiliary facilities. The request for a larger wall sign face area for the east and south facades of the ER/Trauma Facility are needed in order to more effectively identify the Emergency Entrance to customers seeking urgent medical attention.

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, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

Granting the variances will not confer and special privileges this property owner. Visibility is a prime concern when considering the need to access a hospital in a hurry. Other facilities in the campus have signage appropriate to their need for visibility and the hospital is requesting the same in the interest of public safety. The site supports multiple medical buildings including a hospital that supports an Emergency/Trauma facility, medical buildings, a medical office park and day care center. A variance to increase the size of the wall sign on the ER/Trauma Facility (main hospital) will be visible to approaching vehicles (users) entering the hospital site. The variance meets the purpose of the sign Code which is to protect the health and safety of persons in Palm Beach County. @

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

As the circumstances described above demonstrate, the constraints placed upon this property by its size and the fact that it supports a number of separate medical facilities, including the ER/Trauma facility Literal interpretation of the Code would create an unnecessary hardship upon the property owner to the effect that the permitted sign would not provide adequate visibility in order to provide for safe and clear direction for users to the facility.

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

The variances are the minimum necessary to make reasonable use of the land. Considering the size of the overall medical Campus and the mix of land uses, the proposed variances are the minimum variance that will allow this hospital to function as a safe public service. A larger wall sign will clearly identify and separate the ER/Trauma facility from other medical facilities located within the overall project, which are similar in architectural style and color.

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

The variances are consistent with the purposes, goals, objectives, and policies of the Plan and the code. The goal of the proposed sign variances is to provide for a more

efficient internal visibility that will improve on-site circulation. In much the same way, these variances are also consistent with the sign Code's purpose that is to protect the health and safety of person in Palm Beach County. The sign code is general in its intent and application. This particular use, a regional hospital and trauma center has very specific signage requirements in order to provide clear and efficient identity to its users. The proposed variances, if granted for a wall sign to exceed the allowable maximum size will meet the applicants and users' needs. In addition, granting of the variance will not negatively impact any of the surrounding lots considering that the wall sign to be located on the east elevation is only visible from the adjacent medical office buildings located to the east. In addition, the proposed wall sign for the south elevation is only visible from Southern Boulevard for approaching vehicles and not visible from any residential structures.

NOTE ON RURAL TIER DISTRICT FROM PLANNING:

The variance request for increased sign square footage is not inconsistent with the Comprehensive Plan. However, please note that the proposed design of the signage may be inconsistent with the specific sign provisions for the rural Tier once adopted in the ULDC.

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

The granting of the variances will not be injurious to the area involved or detrimental to the public welfare. As stated above, the wall sign to be located on the east elevation of the ER/Trauma facility is only visible from the medical office buildings that are interior to the overall campus. In addition, no residential uses exist along the east property line.

ENGINEERING COMMENTS

No comments

PLANNING DEPARTMENT COMMENTS

The variance request for increased sign square footage is not inconsistent with the Comprehensive Plan. However, please note that the proposed design of the signage may be inconsistent with the specific sign provisions for the Rural Tier once adopted in the ULDC.

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on December 19, 2003 one, one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring.
(DATE: MONITORING-ZONING)

CHAIRWOMAN KONYK: Next item on consent is 2002-085, Bruce Keihner, agent for International Trade Center, to allow a proposed development sign to be utilized on a commercial site.

Name?

MR. KEIHNER: Bruce Keihner, appearing for International Trade Center.

CHAIRWOMAN KONYK: Staff has recommended five conditions. Do you understand and agree with those?

MR. KEIHNER: Yes.

CHAIRWOMAN KONYK: Is there any member of the public here to speak on this item?

(No response)

CHAIRWOMAN KONYK: Any letters?

MR. SEAMAN: Two for clarification.

CHAIRWOMAN KONYK: Any Board Member feel this item warrants a full hearing?

(No response)

CHAIRWOMAN KONYK: Seeing none, your item will remain on consent.

MR. KEIHNER: 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.E VARIANCE STANDARDS

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

YES. There are unique circumstances applicable to the subject property. The subject site is a 1200 acre commercial/industrial development with nearly one mile of frontage on the Beeline Highway, a 200 foot r-o-w. The applicant states that the ULDC permitted 32 square foot real estate sign would not be legible due to the distance the sign will be setback from the roadway. In addition, the size and scope of the project warrant consideration of the applicant's request.

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

NO. The applicant has considered several options for improving visibility and advertising of the development. The applicant would like to utilize the same provisions that residential developments are allowed by special permit. The larger freestanding real estate signs are designed to comply with the ULDC standards for temporary residential development signs.

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

NO. Granting the requested variance will not confer a special privilege to the applicant. The intent of the ULDC temporary residential development sign provision, is to allow

large PUDs to utilize on premise freestanding signs for advertising. The Palm Beach Park of Commerce is larger than most other developments in the County and would like to utilize the same provision for a commercial project in order to stimulate development on site.

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

YES. Denial of the requested variance would be an undue hardship to the applicant. The applicant would like to utilize a ULDC provision that residential developments are allowed by special permit. The proposed on premise real estate sales signs are consistent with ULDC provisions and will have a minimal impact on surround parcels. The size of the parcel and nearly one mile of road frontage warrant consideration of the variance request.

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

YES. The requested variance is the minimum variance necessary to allow temporary signage on site. The subject site has over one mile of frontage on the Beeline Highway, a 200 foot r-o-w and contains over 1200 acres. The proposed variance will allow the applicant to utilize on premise development signs that are similar to those allowed in a residential development.

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

YES. The proposed signs will not be intrusive to the surrounding area or contribute to long term visual blight. The signs are temporary and will be conditioned to be removed within three years or until 80 percent of the development is sold-out, whichever comes first. The signs are designed to bring attention to the development opportunities within the Palm Beach Park of Commerce, and are similar to the signs that a PUD is allowed.

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

NO. Granting the requested variance will not be injurious to the surrounding area. The proposed sign locations allow the development to advertise along the Beeline Highway a 200 foot r-o-w. The proposed sign sizes are consistent with the permitted residential development temporary signs. The signs are temporary and will be removed within three years or until 80 percent of the development is sold-out, whichever comes first.

ENGINEERING COMMENTS

No comments

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on December 19, 2003 one, one year from the approval date.

The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring.

(DATE: MONITORING-ZONING)

2. By February 19, 2003, the applicant shall apply to the Zoning Division for a temporary sign Special Permit that utilizes the residential development sign ULDC regulations. **(DATE: MONITORING-ZONING)**
3. By March 19, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. **(DATE: ONGOING-LANDSCAPING)**
4. By June 19, 2003, the applicant shall obtain a building permit for the proposed freestanding development signs in order to vest the variance approved pursuant to BA 2002-085 **(DATE: MONITORING-BLDG PERMIT)**
5. The freestanding development signs are to be removed within three years of issuance of the Special Permit, or until 80 percent of the development is sold out, whichever comes first. **(ONGOING: MONITORING-ZONING)**

CHAIRWOMAN KONYK: Next item on is 2002-086, Richard and Maureen Johnston, owners to allow proposed pool and room addition to encroach into the required front and rear setbacks.

Name for the record?

MR. JOHNSTON: Richard Johnston.

CHAIRWOMAN KONYK: The staff has recommended three conditions. Do you understand and agree with those?

MR. JOHNSTON: Yes, ma'am.

CHAIRWOMAN KONYK: Any member of the public here to speak on this item?

(No response)

CHAIRWOMAN KONYK: Any letters?

MR. SEAMAN: There are none.

CHAIRWOMAN KONYK: Any Board Member feel this item warrants a full hearing?

(No response)

CHAIRWOMAN KONYK: Seeing none, this item will remain 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.E VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIARE TO THE PARCEL OF LAND, BUILDING STRUCTURE, THAT NOT APPLICABLE TO OTHER PARCELS

OF LAND, STRUCTURES OF BUILDINGS IN THE SAME \ DISTRICT:

YES. There are unique circumstances applicable to the subject property. The lot is an irregular shape, with a front property line that follows the alignment of a cul-de-sac. The existing residence was constructed on the west side of the lot, providing a large side yard for improvements. The applicant would like to construct a swimming pool in this location. Due to the lot configuration, the applicant is unable to meet the front setback.

The applicant is also seeking a rear setback variance for a solid roof room addition on the rear of the existing residence. The existing residence was constructed closer to the rear property line to capitalize on views of the Loxahatchee River. The requested variance is mitigated by a canal that runs along the rear property line.

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

NO. The irregular lot configuration results in the need for a front setback variance for the proposed pool and a rear setback for the proposed room addition. The applicant is proposing to construct a swimming pool in the side yard, the only available location on the subject lot with adequate space. The room addition will border a canal that limits the impact on surrounding residences.

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, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

NO. Granting the requested variance will not confer a special privilege to the applicant. The applicant has requested that the Board of Adjustment review the unique aspects of the irregular lot and permit a swimming pool to be located in the side yard, and to allow a room addition in the rear yard. The applicant has designed the proposed improvements to comply with all other ULDC requirements.

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

YES. Denial of the requested variance would be an undue hardship to the applicant. The applicant would like to construct a swimming pool, a typical amenity of a Florida home. The proposed location will limit any impact on surround residents. The proposed room addition is mitigated by an existing canal, and will not interfere with any residents to the rear of the property.

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

YES. The applicant has considered several design options for the proposed pool and addition on the subject lot. The subject lot has irregular property lines that the applicant is attempting to

conform to. The proposed site plan allows the applicant to meet the intent of the ULDC setback regulations without interfering on the privacy of other residences.

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 requested variance will be consistent with the Plan and the ULDC. The proposed site plan allows the applicant to meet the intent of the ULDC setback regulations without interfering on the privacy of other residences. The applicant has designed the proposed improvements to comply with all other ULDC requirements.

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

NO. Granting the requested variance will not be injurious to the surround area. The proposed swimming pool will meet the required side interior setback, and will meet the intent of the ULDC pool setback requirements to maintain privacy, ensure safety, and limit impact on surrounding residents. The room addition variance request is mitigated by an existing canal, and will not interfere with any residents to the rear of the property.

ENGINEERING COMMENTS

No comments

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on December 19, 2003 one, one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring. **(DATE: MONITORING-ZONING)**
2. By June 19, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. **(DATE: MONITORIN-BLDG PERMIT)**
3. By September 19, 2003, the applicant shall obtain a building permit for the proposed room addition or swimming pool in order to vest the variance approved pursuant to BA 2002-086. **(DATE: MONITORING-BLDG PERMIT.)**

CHAIRWOMAN KONYK: So we have 2002 -- on the consent agenda -- 2002-079, 2002-080, Board of Adjustment time extension, 2002-081, 2002-082, 2002-083, 2002-084, 2002-085 and 2002-086 remains on the consent.

Do we have a motion for approval?

MS. CARDONE: So moved.

MR. SADOFF: Second.

CHAIRWOMAN KONYK: Motion by Ms. Cardone, second by Mr. Sadoff.

Any discussion?

MR. PUZZITIELLO: I do want to make the staff report as part

of the record.

CHAIRWOMAN KONYK: Do you want to amend your motion?

MS. CARDONE: Yes.

CHAIRWOMAN KONYK: So the motion has been amended to make the staff report part of the record.

All those in favor?

BOARD MEMBERS: Aye.

CHAIRWOMAN KONYK: Motion carries unanimously.

Anybody on the consent will get their letters and then they're free to leave.

MR. SEAMAN: Oh, we're switching.

CHAIRWOMAN KONYK: No. You introduce, she gives her presentation, then you give your presentation. We just give the little synopsis.

MR. SEAMAN: Kilday and Associates, agents for Communities Finance Company, to allow a proposed residential subdivision to increase the maximum allowable lot coverage and to increase the height of proposed fences within required front yard.

The location is on the east side off Palmwood Road, north of Donald Ross Road, in the IL zoning district.

MS. WALTER: Good morning. Collene Walter with Kilday and Associates, here on behalf of WCI and Communities. Like to take a brief minute, I have two representatives from WCI, who I've effectively screened with my board, Sima Narcus and Frank Kurchinski. And we're here on a parcel of property that WCI owns B

CHAIRWOMAN KONYK: You know what we have to do, anybody that's going to speak on this item, we need to have them stand, raise their right hand and get sworn in.

MS. WALTER: We have a traffic consultant in the hallway. Let me get her real quick.

(Thereupon, the speakers were sworn)

MS. WALTER: The subject property, which actually is the subject of these two zoning variances and then also this subdivision variance, which is the next item on the agenda. So I'll kind of give an overview that actually will go into the record for both of the variance applications.

The property is about 5.7 acres. It is located on the east side of Palmwood Road, north of Donald Ross Road and south of Frederick Small Road. Parcel property currently is vacant.

It's a unique parcel property. It has an industrial zoning designation; it has a dual land use designation. It actually has an LR-2 residential land use designation, as well as a CR, commercial recreation designation. What that does is it allows a variety of development opportunities. Utilizing the CR land use, it could rezone to CRE and be commercial type uses, like a restaurant, a fitness center, a hotel. Utilizing the LR-2 land use designation, it could be a residential development of up to two units an acre. Looking

at the character of Palmwood Road in this area, the residential development is much more compatible with the existing conditions and that is what WCI is pursuing. There's actually a residential subdivision of seven lots on 5.7 acres of property. That results in a density of about 1.2 units an acre, which is less than the two units an acre that the land use would allow.

Now, the piece of property, as you can see, is a very strange shape. It at one time was actually used as a site to build bulk heads and docks and they used the Intercoastal Waterway as a way to get the barge out to do that construction. The site, as I mentioned, is now currently vacant. And to accommodate the lots on the site, we have developed a site plan that

essentially seeks to utilize the property to its full potential. Now the LR-2 land use designation is consistent with the RTS zoning designation. That zoning designation requires that every lot be a minimum of 14,000 square feet in size. That's approximately a third of an acre. So to meet the zoning requirements, each lot has to be about a third of an acre in size. To meet the lot area requirements and recognizing that the shape of the property is very irregular, is actually encumbered on this end by the Intercoastal Waterway and their easement. We essentially end up with a seven lot subdivision, where four of the lots are serviced off of a cul-de-sac and three of the lots are serviced off of Palmwood Road. These three lots are the subject of the next variance, which is the subject of the variance.

This application that we're considering now is actually for two zoning variances. And these have to do with the height of a decorative fence that would run along Palmwood Road. And then the second variance has to do with the lot coverage that would be allowed on each lot.

Starting with the lot coverage, I think I want to make a little bit of a differentiation between lot coverage and floor area ratio. The RTF zoning district allows a 25 percent lot coverage. What lot coverage includes is your first floor building area, but it also includes any other covered areas of the site. If you have a gazebo out in your backyard, that counts towards lot coverage. If you have a covered, that counts towards lot coverage. So that is really the difference between lot coverage and your floor area ratio.

Now, the properties that are to the north on Palmwood Road have an old zoning designation of RS, residential suburban. That zoning designation allows up to a 40 percent lot coverage. If this site was big enough to be a PUD, the PUD ordinance allows up to 40 percent lot coverage. But in the LR-2 land use designation, you need 30 acres to be a PUD.

What we fall back on is that this is actually considered in-fill development. An in-fill development is something that the Palm Beach County Comprehensive Plan encourages. There's a lot of policies written to encourage development and redevelopment of those under-utilized properties that are in the eastern corridor. And it's an effort to stop or halt the sprawl that's occurring in the western community. And the comprehensive plan speaks to allowing flexibility in development regulations for in-fill development.

So what we're asking for is a variance to go from 25 percent lot coverage to 40 percent lot coverage, which would allow this development to be consistent in the lot coverage that is allowed today in planned unit developments that occur in the western limits of the county, as well as with those other homes along Palmwood Road that have an RS zoning designation, which also allows for 40 percent lot coverage.

The second variance that we have is a fence height variance. And that variance is for the frontage of the property along Palmwood Road.

The Palm Beach County Unified Land Development Code has a requirement that fences and walls that are along a right-of-way should be no higher than four feet in height. What we are asking for is the ability to put in a six-foot height decorative fence. And in your staff report, I believe there is a detail of the decorative fence that we're proposing. The intent is to provide security, or at least a perception of security. Again, recognizing that a six-foot fence might not detour a criminal who is bound and determined to get onto a piece of property, but by being able to accommodate that additional fence height, there's a perception of security. But by doing a decorative fence, it doesn't come across as a fortress.

The Bear's Club is located on the west side of Palmwood Road, directly west of the subject property, and they have constructed a wall along their frontage. We don't really want it to look like that, which is more of a fortress attempt. This fence would be located, per code, on the back side -- landscape buffer. There's a 20-foot landscape buffer that's required along this section of Palmwood

Road. So all of the landscaping would be in front of the fence and the fence would then be a backdrop that would essentially provide security.

Because of the limited site area and the irregularly shaped parcel of property, we cannot get a loop road or even extend this cul-de-sac further into the lot. And you'll hear more about that in the next aerial. But what it also prohibits is the ability to do any type of controlled access. So by being able to put up a fence and each lot essentially have a gate, that then controls access into their property. We can provide the security that these homeowners will be looking for.

So those are the two zoning variances. I'll leave it up to your discretion if you want to act on the zoning variances and then go into the subdivision variance, or if you'd like me to do all three at once.

VICE CHAIRMAN BASEHART: I think we ought to separate them and why don't we just hear staff report and see if there's any objections to the zoning variances.

MR. SEAMAN: Well, staff concurs with the applicant and we believe that the applicant has demonstrated on compliance with criteria. We feel there are special conditions that exist that are peculiar to the parcel of land and they are the fact that it's an in-fill area and that it's an irregular lot. We believe the subdivision does not bring special privilege to this property owner that are not enjoyed by other similar developments in the area of the 40 percent building coverage, which is consistent, again, with the northern parcels that are zoned RS. Also the benefits that are being proposed by the fence variance are enjoyed by a number of the communities in that area. There are four gated communities in that immediate area and there are over a half a dozen single-family gated entries to the north of this proposed site.

The variance will not be injurious, we feel, to the area in any way. The variance is also consistent with the purposes and goals and objectives and policies of the planning code, since the comprehensive plan does suggest that when you have an in-fill property, we need to be more flexible with that regulation.

Therefore staff does recommend approval with conditions, and those conditions can be found on page 80, with some modifications, which at some point I need to read those in.

CHAIRWOMAN KONYK: Now.

MR. SEAMAN: Do it now? Okay.

There are four conditions and Condition 1 and 2 need to be modified. Instead of where they say, November 21st, 2003, they need to read December 19th, 2003. Condition 2 should read also, not November 21st, but December 19th.

Condition 3 is completely deleted and replaced with what you'll see in front of you, a much longer condition, which specifically talks about the landscape buffer to the north of Lot No. 1.

And then Condition 4 remains as shown on the staff report.

CHAIRWOMAN KONYK: You're familiar with those?

MS. WALTER: Yes we are familiar with the condition amendments and we are in agreement with all of them.

CHAIRWOMAN KONYK: Is there any member of the public here to speak against this item?

MR. KOCH: Yes.

CHAIRWOMAN KONYK: Name for the record.

MR. KOCH: Robert Koch of 1441 Cypress Island Circle, Palm Beach Gardens.

I'm a director of the Cypress Island's property owners association and I'm here representing the association.

CHAIRWOMAN KONYK: Do you have a letter from the association?

MR. KOCH: I have a letter.

The Cypress Island Property Owners Association is opposed to the above referenced petition, being 2002-076. The Cypress Island Property Owners Association is comprised of 70 homeowners in the PUD adjoining the subject property directly to the

south.

The association is opposed to the granting of the variances that are the subject of the petition for the following reasons: The applicant has not satisfied the seven criteria as required under the provisions of the ULDC. There are no special conditions and circumstances that are peculiar to this parcel of land that are not applicable to other parcels of land in this same district. The applicant's claim that the shape and configuration of the parcel prevents reasonable use of the land without the variances is totally without merit. There are seven building sites in the proposed parcel and the applicant can build seven homes as of right without any variances. The building sites are not substandard in size, necessitating the variance in maximum building coverage.

Granting the hundred percent -- granting the 60 percent variance request -- I'm sorry, I wrote this before they amended their application -- granting the 60 percent variance request, increasing the maximum building coverage to 40 percent, would be a violation of the intent of the statute.

The applicant's claim that the shape of the parcel constitutes a special circumstance that was in place when CFC purchased the property from the McGarther Foundation is without merit. Regardless of the shape of the parcel, there exist seven lots on which the applicant can build homes without any variance being required. Thus there are no special circumstances as claimed. While the applicant, WCI -- or CFC indicates that it purchased the property from the McGarther Foundation, the applicant neglects to indicate that CFC is wholly owned by WCI Communities and the McGarther Foundation is the third largest shareholder of WCI Communities. Therefore the applicant was obviously aware of the shape of the parcel when it was transferred from the McGarther foundation to CFC, and that several site plans or site designs existed to enable CFC to build on the lots without any variances.

If it can be perceived in any way that there is some special circumstance, it is therefore clearly self-created. Granting the variance will most certainly confer a special privilege upon the applicant that is denied by the comprehensive plan and the code to other parcels of land, buildings or structures. The applicant's explanations of its claim of meeting the particular criteria is so without merit as to be frivolous.

There is no unnecessary and undue hardship for the applicant in being able to build seven homes on the parcel without the benefit of any variance. The applicant's claim that the site will not be developable as a residential property -- and that's a quote -- is totally inaccurate. Once again, the applicant can develop the property and build residences without any variance being necessary.

The applicant's claim -- and I quote again -- that these variances are the minimum necessary for the reasonable use of the land as a residential development, is equally without merit, since the land can easily be developed as residential property without the benefit, again, of any variance whatsoever.

The grant of the variance will not be consistent with the purposes, goals, objectives and policies of the comprehensive plan and the code. In fact, once again, no variances are required to carry out the language and the intent of the comprehensive plan and the code. Pursuant to the ULDC, failure to satisfy any one of the listed criteria requires that the application for the variance be denied.

This applicant clearly has numerous alternative solutions available for the development of the subject parcel without any variances being required, such as different site plans or site designs. If it is being desirable for homes as large as that proposed, which is up to 10,000 square feet in the footprint, since one site is 26,000 square feet, the applicant need merely decrease the number of homes to be built and will not require any variance.

It should also be noted that the average size of the waterfront homes in the Cypress Island Community, which is the POA that I represent, is about 4,000 square feet. This is less than half the size of

the homes proposed by the applicant. The average size of the other homes in Cypress Island is about 2500 square feet. The average size of the homes on Palmwood Road adjoining the subject parcel to the north, that average size is also less than half the size of the homes proposed by the applicant.

Under the provisions of the ULDC, if any alternative solution exist for the development of the subject parcel, the grant of a variance by the Board of Adjustment would be a violation of the law.

The Board of Adjustment application itself, right in the preamble has the following statement, and I quote, "Prior to applying for a variance, look for alternative solutions, i.e., site design to the problem. If alternative solutions are available, you are NOT -- and that not is in caps -- a candidate for a variance," end quote.

The applicant has previously indicated that it will be selling the property if the variances are approved. It is clear that gaining enhanced value for the subject parcel is not within the language of the code as being a sufficient justification for the grant of any variance. In fact, getting increased value for the subject parcel as a justification or rationale for obtaining a variance is an abuse by the applicant of the processes and procedures of this very Board. For the applicant to request that the Board of Adjustment grant these variances merely to enhance the profit potential of the subject parcel is an obvious attempt by the applicant to subvert the language intent and spirit of the law and it should be denied.

The reading of the justification statement submitted by the applicant makes it clear that this application is wholly and substantially without merit. The statement is contradictory from one paragraph to the next, utilizes illusory presumptions on which to base erroneous conclusions, and is so generally inaccurate that it should be deemed by the Board to be insufficient to support the application as a matter of law.

For the above reasons, the Cypress Island Property Owners Association respectfully request that the Board of Adjustment disapprove the application and the petition. Thank you.

CHAIRWOMAN KONYK: There are no other members of the public to speak? Are you B

MS. WALTER: He's with us.

CHAIRWOMAN KONYK: Okay. No other members of the public?

(No response)

CHAIRWOMAN KONYK: Okay. We're going to close the public portion of the hearing now.

MR. SEAMAN: We should read the -- I want to make sure we get the letters in.

CHAIRWOMAN KONYK: Okay. Do the letters now.

MR. SEAMAN: There are two letters here. One is from the Cypress Island Property Owners Association, which again is the 70 members.

CHAIRWOMAN KONYK: That's the gentleman that just spoke?

MR. SEAMAN: The gentleman that just spoke.

CHAIRWOMAN KONYK: Well you're not going to read in the letter.

MR. SEAMAN: No, no. My point is that there are 70 members there and they disapprove of it. Then we also have a letter from the Cypress Island Marina Condominium Association, which is also made up of 70 slip members and they fully support the variance application as presented in this petition.

VICE CHAIRMAN BASEHART: They fully support it.

CHAIRWOMAN KONYK: Do you want to answer any of those?

MS. WALTER: Yes, just a real quick, I guess, rebuttal.

We feel, as does staff, that the seven criteria were met.

I think I just want to touch on one thing, which is the development alternatives and the reasonable use, which is what the variance criteria speaks to.

Again, this property, having a commercial potential and a

residential potential, we looked at the reasonable use as being residential. We're only eligible to be one zoning district and that zoning district has a 14,000 square foot lot size.

On a 5.7 acre site, you cannot believe the amount of alternative site plans that we've generated trying to accomplish our client's goal, comply with the unified land development code, and work out all the site constraint issues. And so the plan that's before you, essentially, we feel is the most reasonable plan that we have come up with and seeks the minimal variances and complies with the standard. And I believe staff feels the same way with their recommendation of approval. Thank you.

CHAIRWOMAN KONYK: Any Board Member have any questions?

MS. CARDONE: Alan, in the past three months now, we've had petitioners coming forward on this same exact road. This is all happening within a very, very, very limited space. And I just want to ask you, because I want to make sure that we're being consistent -- in whatever we do, consistency is very important -- so when you're evaluating, you know, what can be done here, when you're evaluating these parcels being irregular, what is the process that you're going through to determine whether this is irregular and creates a hardship or -- and I just want to make sure, because last month some were approved, some were denied. I just want to make sure we're following the same criteria for everybody.

MR. SEAMAN: I think that we do look at it under the criteria of an in-fill area, which that in itself makes it unique.

If you drive up in that area, you'll see that it's pretty much the only vacant area that hasn't been developed in that particular location. The irregularity of lots are simply based on they're not your traditional square type of lot that you can fit all the development criteria on easily. And in that vein, we tend to say, well, this is unusual, because of those two reasons, and the fact that the comprehensive plan does suggest that we are more flexible in allowing development of in-fill sites. So I kind of look at those are the criteria in which we say, it does meet the seven criteria. If there is a criteria that perhaps is not totally met, the applicant has the right to perhaps a condition, in this case additional landscaping, to help mitigate one of the seven criteria that might not be being met, which also gives you the right to say, you know what, we don't feel you've mitigated enough. Say, for instance, on the north property, we've conditioned quite a bit of landscaping, which you've seen. You may say, you know, that kind of counteracts the impact it might be having and that's good, or, no, we need more to mitigate the condition.

MS. CARDONE: Okay. Thank you.

VICE CHAIRMAN BASEHART: First of all, I'd like to start off by making a motion that the variances requested be approved. I agree with the staff report and staff recommendation. And especially important to me, and I've dealt with this many times on projects that I've worked on, the in-fill policies in the comp plan I think are important here. When you go into or you address development activity in an area that's been predominately built out, and all that's left are residual parcels that have problem configurations and other locational limitations, I think it's important that you be very flexible to try to assure that the policy and the goal of the plan to encourage development in the eastern portion of the county be accomplished. And I think that the solution for this property being proposed is an excellent one. This is the first time that I can remember people coming in and objecting to somebody building bigger, more expensive houses in their neighborhood. I mean, most neighborhoods would welcome that because it tends to increase property values in the area. I'd be concerned about the development proposal and probably not supportive if we were looking at setback variances that allowed development of these parcels to encroach on the adjacent residences, but that's not what these variances are about. Recognizing that the property -- other property in the area is zoned RS, I mean, I think another approach to achieving the applicant's

objective would be to do a comp plan amendment, you're rezoning, and then you could add actually more houses on this property and you could have your 40 percent lot coverage.

I think this is a good compromise. It minimizes the density by having the larger lots, but allows the same kind of coverage that other properties in the neighborhood are allowed to enjoy and that's a good justification.

And the fence height variance, I think that's simply, in addition to security, it's an aesthetic improvement. I think it's very attractive. And, again, I don't see where that has any impact on the neighbors to the north or the neighbors to the south or the neighbors to the east, because it's along the roadway and it won't have any direct physical or visual impact on them whatsoever. So I think that the requested variances are justified under the seven criteria, as staff report suggest, and for those reasons I've made the motion for approval, subject to -- and the conditions with respect to landscaping, personally, I'm glad that the applicant has agreed to them, but I don't think there's a real rational nexus between the request -- if it was a setback variance, I'd say, yeah, we need to beef up the landscaping to mitigate. But I think that's just another thing that the applicant is doing to try to mitigate any possible impact on the neighbors.

So with that conditions recommended by staff, I'm making a motion for approval.

MR. PUZZITIELLO: Second.

CHAIRWOMAN KONYK: We have a motion for approval by Mr. Basehart, a second by Mr. Puzzitiello.

Any discussion?

(No response)

CHAIRWOMAN KONYK: All those in favor?

BOARD MEMBERS: Aye.

CHAIRWOMAN KONYK: Motion carries unanimously.

MS. WALTER: Thank you very much.

STAFF RECOMMENDATIONS

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

ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

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

The parcel of land is of a peculiar shape and configuration that prevents reasonable use of the land without these variances. The site is also unique in that it is a vacant infill redevelopment parcel with a Commercial Recreation land use and an Industrial zoning designation, both of which are incompatible with the surroundings. Therefore, the development of the site must include a higher level of amenities to be developed as residential. The small size of the property and the land use designation limit the possible zoning districts to RT and RTS, both of which include suburban development regulations.

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

The special circumstances and conditions are not the result of the applicant. The current industrial zoning is inappropriate for this residential community. The unusual shape of the properties and the zoning designation were in place when Communities Finance company purchased the property from McArthur Foundation.

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, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

The subject request does not confer any special privileges to this property owner that are not enjoyed by other similar developments. Granting of the variances will allow the development of a multimillion-dollar residential development on the ICW. No surround properties will be adversely affected by these variances and the lots within Harbor Place will meet all of the other required development regulations. The 40% building coverage is consistent with surround residential communities. To the north the RS zoning district allows single-family homes on lots at a max. building coverage of 40%. To the west across Palmwood Road is the Town of Jupiter R1 zoning supporting 30% max. building coverage in the Bear's Club residential development. The advantages allowed by the proposed fence variance are already enjoyed by subdivisions large enough to provide guardhouses.

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

The constraints placed upon this property by its location, shape and land use designation work an undue hardship on the applicant. Literal interpretation of the Code would create an unnecessary hardship upon the property owner to the effect that the site will not be developable as a residential property.

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

The proposed variances are the minimum necessary to make reasonable use of the land. The required access road combined with the limited choice in residential zoning designations make the frontage and fence variance necessary. These factors combined with the typical constraints on in fill properties make the building coverage variance necessary. Even with an increase in the proposed building coverage, there will be adequate open space on each lot and a min. 30' separation between structures. The limited size of the property dictates that the variances are necessary to enjoy the same amenities that are available to other properties.

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

By granting the variances for the proposed 40% building

coverage and the increased fence height, adequate open space on each lot and a 30-foot separation between structures will be maintained. This is consistent with the goals and policies of the comprehensive plan and the ULDC. The limited size of the property dictates that the variances are necessary to enjoy the same amenities that are available to other properties.

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

The variances will not be injurious to the area involved or detrimental to the public welfare. The building coverage variance will not result in encroachments into any of the setbacks. The fence variance for a 2-foot increase in height will be noticeable from the access road. The granting of these variances will permit the development of a seven-unit high-end subdivision.

ENGINEERING COMMENTS

No comments

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on November 21, 2003 one year from the approval date. The applicant may apply for an extension provided they complete the time extension application prior to the original Development Order expiring. **(DATE: MONITORING-ZONING)**
2. By November 21, 2003, the applicant shall obtain one of the single-family dwelling permits in order to vest the variances subject to this application as well as provide the Building Division Intake Section with a copy of the Board of Adjustment Result letter and a copy of the DRC certified Site Plan Exhibit. **(DATE: MONITORING-BLDG PERMIT)**
3. By December 21, 2003, the applicant shall obtain DRC certification and the final site plan shall denote the following modification so the compatibility buffer along the north 209 feet (west of the mean high water line) of lot 1 as follows: **(CO: LANDSCAPE-Zoning)**
 - a. a minimum ten (10) foot wide landscape buffer strip;
 - b. one (1) shrub for each two (2) linear feet of the property line at a minimum height of thirty (30) inches at installation and maintained at a minimum height of (6) feet at maturity or a six (6) foot high wall with one (1) shrub for each two (2) linear feet of the property line at a minimum height of twenty-four (24) inches at installation and maintained minimally at the same height and located on the north side of wall; and
 - c. one (1) canopy tree planted for each thirty (30) linear feet of the property line, alternately installed on either side of the thirty (30) inch hedge or wall; and
 - d. one (1) palm or pine tree for each fifteen (15) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters, alternately installed on either side of the (30) inch hedge or wall.
4. Any modifications to the final site plan certified by DRC shall be consistent with the intent of the Board of Adjustment approval. Modifications to the site plan, by the applicant, during the review process shall be presented to BA staff to ensure consistency with this variance approval. **(ONGOING)**

CHAIRWOMAN KONYK: Next item is SD-110, petition of Communities Finance Company requesting a variance from the requirement that access from individual subdivision lots shall not be permitted directly to a major street.

MS. WALTER: Thank you. Again, Collene Walter with Kilday and Associates.

If it's okay with the Board

CHAIRWOMAN KONYK: Collene, before you go, I'm going to just ask if there's any member of the public that's going to speak on this that didn't get sworn in already? If there is, could you please stand?

(Thereupon, the speakers were sworn.)

MS. WALTER: Thank you.

This is a subdivision variance on the same parcel of property, the same development plan. And if it's acceptable to the Board, I'd like to have the introduction that was done with the previous variance just carried forward on the record for this variance so I don't have to bore you-all with that again.

A lot of the justification, though, for this variance is very similar to what was just discussed on the zoning variances. Again, the property is an in-fill site. It has the opportunity to develop with commercial uses, we've chosen to pursue the development with a residential use, which is much more consistent with the area.

What the subdivision variance is for is a provision in the engineering section of the ULDC that prohibits the creation of new lots on major streets. And what that means is, if you have a parcel of property, you cannot subdivide it if its only access point is going to be on a major street. And a major street is defined as any street that is shown on the Palm Beach County thoroughfare right-of-way protection plan. Palmwood Road is shown on the county's thoroughfare right-of-way protection plan as a 110 foot alternate right-of-way. And so that is the reason we're here before you today.

As I mentioned, it's a seven-lot subdivision. We have been able to bring into the site a sub road, which is required to dead end in a cul-de-sac, and that serves these four lots. Because of the narrow depth of the site here, again, working with the RTS zoning district, a 14,000 square foot minimum lot size and a 125 foot minimum depth, there is no way to physically extend this road to serve these three lots.

So these three lots would have to be created, if they're approved, and would have direct access onto Palmwood Road. It's really a function of the site design and the configuration of the site, which is very unique.

Now if we wanted to develop as a commercial use, we probably would not be subdividing, we would not need a variance, and we'd be able to have numerous access points onto Palmwood Road, because the code division doesn't prohibit driveways, it prohibits the creation of lots with access onto a major street, which I think is very important here. We could come in with any of the commercial uses that would be allowed in the CRE, generate a lot more traffic, they would have direct access with numerous access points on Palmwood Road, but that's not what we want to do. That's not what is compatible with this area. What is compatible with this area is single-family residential.

Palmwood Road is classified as a major street on the thoroughfare plan. I will be honest; I don't think I ever got a good answer why. At one point in time, this property, which is now the Bear's Club and the Ritz Carlton, did have an approval for about 4,000 units. And I believe that maybe at that time when the comp plan was adopted in 1989, Palmwood Road was perceived as being -- the possibility of being a major road to serve what at that point was undeveloped property. Today, Palmwood Road functions as a residential street. A lot -- a majority of the lots along Palmwood Road actually have direct access onto Palmwood Road; that actually is the

character of the street. And the residents actually recently petitioned the Board of County Commission to recognize that this road was a residential street and to put in improvements to essentially in an attempt to slow down traffic. Because it's such a straight shot roadway, you can essentially pick up speed. There's no stop signs or anything else in route. But as you can see from these pictures, the road itself is very residential in character. It has 24 feet of pavement, two lanes; a lot of the houses directly access the road. So although it is classified as a major street, it really doesn't function as a major street. And so that is one of the justifications for our variance. There is no plans by the county to widen this road. I do not believe it's on the five-year plan. And it really primarily serves residential uses. The residents' intent is to keep this as a residential street. And I believe that the county is in agreement with that, in that they have recently installed some improvements in the road to help slow down the traffic and keep it residential in nature.

The three lots that have direct access to Palmwood are opposite the Bear's Club. And as I mentioned earlier, the Bear's Club has installed a wall along this portion of the property. They will not have any access onto Palmwood Road. There will be no conflicts with these three driveways and any other proposed driveways on this side of the street. This section of the road, actually, because of the wall and because of this property and Cypress Island, does not have any other driveways until you get to the one that actually is the entrance to Cypress Island PUD to the north of when you start with the individual lots that have direct access to Palmwood. So we do not feel that these three driveways are causing any kind of safety concerns, because they are located in such a way that they don't conflict with other driveways. Also, the amount of traffic being generated from this development is very minimal; again, especially when you compare it to what could be developed here utilizing the other commercial land use designation.

I think what we'd like to do at this point is to have Becky Mulcahy, our traffic engineer, and Bill Perry, put some facts on the record related to the traffic impact and generation rates from this property.

MR. PERRY: Thank you. For the record, I'm Bill Perry, with Gunster, Yoakley and Stewart, P.A.

MS. MULCAHY: I'm Rebecca Mulcahy with Pinder Troutman Consulting.

MR. PERRY: If you'll humor me for a second, we're going to try to establish a record, because we do believe we have factual testimony that needs to be before you for you to make your decision.

Becky, can you just give a brief description of your background, please?

MS. MULCAHY: Yes. I'm a registered professional engineer in the State of Florida. I've worked for about seven years as a consultant. And most recently I've had over nine years working for Palm Beach County in the traffic engineering department as the traffic signal engineer.

MR. PERRY: Are you familiar with the Requirement Section 8.29.D.2 which is being discussed?

MS. MULCAHY: Yes I am.

MR. PERRY: And are you familiar with the code definition of a major street?

MS. MULCAHY: Yes I am.

MR. PERRY: As Collene had indicated, a major street as defined in the code is in reference to a map. And the map does show Palmwood currently is a major street.

What would be the purpose of that requirement?

MR. MULCAHY: That requirement basically in defining a major street would be a major thoroughfare or a major collector road that would basically carry high volumes of traffic at a higher rate of speed.

MR. PERRY: Section 8.29 of the code says a residential lot cannot access directly onto a major street. Would the primary purpose of having that requirement in the code be safety?

MS. MULCAHY: Yes it would. And the efficiency of the roadway.

MR. PERRY: If you look at Palmwood as walking and going down the street, does it appear to you, from a practical-man test, to satisfy the definition of a major street?

MS. MULCAHY: No. It actually operates more as a minor residential street or a minor collector. It has only 24 feet of pavement. It does have traffic calming devices out there. And it also carries around 5500 vehicles per day, which is almost one-third of the capacity of a two-lane road.

MR. PERRY: What would you expect, then, the ADT for a major street in trips per day?

MS. MULCAHY: Anywhere from 25,000 to 50,000 vehicles per day is on a major roadway.

MR. PERRY: Would you expect both residential and commercial uses to be accessing a major street?

MS. MULCAHY: Yes on the commercial. On residential, typically on a major street is through one main entrance to a neighborhood.

MR. PERRY: And on a speed limit, what speed limit would you expect on a major street?

MS. MULCAHY: Forty miles an hour and up.

MR. PERRY: What is the speed limit on Palmwood?

MS. MULCAHY: I believe it's posted at 30 miles an hour.

MR. PERRY: Our primary argument here is Palmwood is a residential street in practice and the county hasn't gotten to its amending its thoroughfare map to reflecting that. In fact, what the county did in response to the residents' request, between 1998 in 2001, they installed traffic calming devices and lowered the speed limit to keep the traffic off of Palmwood. So we feel like we're being caught in a technical situation here between what the code and the plans produced by the county say and the actions of the county, in effect granting variances to their own requirements by installing traffic calming devices on what they're calling a major street.

Thank you for your humoring me.

CHAIRWOMAN KONYK: Is that what we were doing?

MS. WALTER: I think that completes our justification for the variance request.

We do have a staff recommendation of denial on this request. Staff has indicated in their staff report that they do not feel that we have met the criteria. We feel otherwise. And, again, that was why we wanted to provide for you on the record some technical testimony. As an aside, I'm a registered landscape architect and a certified planner, so I am also a professional prepared to testify if you have any further questions.

Thank you.

CHAIRMAN KONYK: Thank you. We'll hear from staff.

MR. CUFFE: Did you want to hear about letters first?

CHAIRWOMAN KONYK: I want to hear from you.

MR. CUFFE: Okay.

The applicant's request is to allow the three lots of the proposed seven-lot subdivision to have direct access onto Palmwood Road, which is Prosperity Farms Road extension. It's a thoroughfare plan collector road, rather than a local street as required by the county subdivision regulations.

Staff does not feel that the criteria for granting them a variance have been met. And, frankly, regardless of the existing condition and the existing character of Palmwood Road, it is still and it is still intended to be on the county thoroughfare plan as a connection from Donald Ross Road up to Frederick Small, which ultimately is intended to be crossing the river to Marcinski. So there's been no move to remove it from the thoroughfare plan.

As far as being a self -- staff feels that it's a self-created condition and that the current code requirements for local street access for subdivision lots and the prohibition of direct access to thoroughfare planned streets has been in effect since 1973, which is

long before the applicant purchased the property in 1999. It can reasonably be assumed that the applicant purchased the property for use in accordance with some intended plan of development and that even a cursory review of the county subdivision regulations and thoroughfare identification map prior to the purchase would have revealed the unsuitability of the subject property development, per the proposed subdivision plan.

As far as special privilege, we don't feel that the criteria or the standard for special privilege -- for not being a special privilege has been met.

As far as the majority of existing individual lots that do have direct right-of-way access on the road on this portion of Palmwood Road, those lots were generally created prior to the adoption of the county's mandatory subdivision regulations in 1973. And the existing connections and existing access rights would continue to be utilized by these lots until such time that any of these other lots came in for a subdivision, in which case they would be subject to exactly the same requirement, to provide access on a local street and take it off the thoroughfare planned road.

We don't feel there's an undo hardship. Since the project is still in the preliminary planning stage, there's nothing to prevent the applicant from reducing the number of lots and re-configuring the subdivision so as to provide internal local speed access to each lot.

We don't feel that it's the minimum variance, since the applicant has the option to reduce the number of proposed lots or modify the -- development on the property so as to reduce the extent of the requested variance or eliminate the need for it altogether. We don't feel that the requested variance is consistent with the intent of the code, since the code's intent is specifically to prohibit additional driveway connections and in fact remove connections from thoroughfare roads as much as possible for new residential lots. And the intent is to minimize, is to further reduce, or at least not increase, and to further reduce the traffic interruption, driver confusion and safety hazards caused by sequences of driveways; and in this case, three driveways and an intersection. And we don't -- staff does not feel that the granting of the variance would be consistent with the public welfare, because it would allow additional uncontrolled closely spaced residential driveway connections to a county thoroughfare collector road. They're in close proximity to a proposed local street intersection and several existing residential driveways to the north. The additional points of uncontrolled and unpredictable turnoffs to and from the collector roadway increases the potential for confusion and conflict with through traffic on the existing two-lane roadway.

Therefore, the engineering department recommends denial on the basis of the applicant's failure to demonstrate compliance with the standards.

CHAIRWOMAN KONYK: You mentioned that there were some letters.

MR. CUFFE: There were a total of 42 letters, all in opposition. Thirty-one of them opposed with stated reasons, 11 opposed with no reasons stated. I don't know whether you want me to read these or not.

CHAIRWOMAN KONYK: No.

VICE CHAIRMAN BASEHART: Are the reasons given consistent with the testimony you've given?

MR. CUFFE: The reasons are consistent to the consent. They're concerned with pedestrian and vehicular safety on the road and the ability of the owner to redesign the lot. They are basically summed up by one letter from Robert Koch, who is representing the Cypress Island.

CHAIRWOMAN KONYK: Forty-two letters are from the same association that Mr. Koch is from?

MR. CUFFE: Forty of them are. There are two that are actually from other residents on Palmwood Road, but they all essentially address the same thing, the question of safety hazards.

CHAIRWOMAN KONYK: So presently there's no driveways that

go onto this road? There are none?

MR. CUFFE: From this lot?

CHAIRWOMAN KONYK: No. Just in other areas of this road there are none right now? Are there presently driveways that go onto Palmwood Road?

MR. CUFFE: There are driveways to the north of this property. There are probably 20 grand-fathered lots that have their driveway access onto Palmwood.

MS. WALTER: And also these lots here to the south.

CHAIRWOMAN KONYK: Thank you.

MR. CUFFE: These were existing -- that's why I'm saying -- these were existing driveways the same way as you'll see on Military Trail.

MR. PUZZITIELLO: You say the county is still considering this as a major thoroughfare?

MR. CUFFE: It is still a thoroughfare -- it's a 110 foot ultimate right-of-way thoroughfare planned road, which is intended to connect -- it's a thoroughfare planned road from Donald Ross up to Frederick Small and Frederick Small is intended to ultimately cross to Marcinski. And it's been posted that way for years.

MR. PUZZITIELLO: Then why are they putting traffic calming devices on that road?

MR. CUFFE: I believe because in the current situation with the traffic, until they -- probably until they create the connection, the County Commissioner felt that they would like to see traffic calming for the current residents. But the question of not creating additional situations on the thoroughfare -- on a thoroughfare planned road is what this issue is.

MR. PUZZITIELLO: Does the county already own that ultimate right-of-way all the way from Donald Ross?

MR. CUFFE: Not the whole 110. Basically it's an 80-foot right-of-way. Some areas have expanded to 110.

VICE CHAIRMAN BASEHART: If you-all intended that this be preserved and conserved as a thoroughfare -- as a collector, significant collector type road, why didn't you tell the Commissioner she couldn't have her traffic calming devices?

MR. CUFFE: In discussion of the traffic calming devices -- and I have not been involved in them specifically -- but in all the discussions that I have heard at the Board of County Commissioners meetings, they're on, I believe, Ellison and Wilson Road and on Loxahatchee River Road and several of the minor thoroughfare -- collector thoroughfare planned roads, not Minor Road, I'm talking about the minor in relationship to the thoroughfare plan. The Commissioners have felt that they wanted to see traffic calming placed in because they're afraid they become speedways and these are areas where there is already residential. And this is not removing the ultimate plan to have these as exactly what they're shown on the thoroughfare plan as.

VICE CHAIRMAN BASEHART: So you would consider the traffic calming things to be interim?

MR. CUFFE: I would say, consider the traffic calming devices that have been placed in here as to be absolutely irrelevant to the question of them being thoroughfare planned roads.

VICE CHAIRMAN BASEHART: Well, I don't agree with that.

My understanding of the concept of traffic calming versus the concept of a collector road is that those two things are incompatible.

The idea is, in a collector road you have a wider right-of-way, you have a bigger road, you minimize driveways, you minimize stop signs, minimize stop lights, you minimize interferences with the smooth efficient quick flow of traffic so that the road can carry more.

The idea of a traffic calming device is to constrict the roadway and to provide obstacles so that people can't travel efficiently and quickly. So they're inconsistent. Either you've got roads that you're trying to keep traffic slow and congested on or you're trying to speed them up. But I know that's not your issue.

CHAIRWOMAN KONYK: Just making a point?

VICE CHAIRMAN BASEHART: Just making a point.

CHAIRWOMAN KONYK: Anything else, Dave?

MR. CUFFE: No.

CHAIRWOMAN KNOYK: Hear from the public?

MR. KOCH: Chairman and Members of the Board, once again,

just in reference to a comment made earlier, the Cypress Island Property Owners Association is not in any way opposed to the development of this property as residential property, nor is it opposed to the construction of high-end homes on the property.

Our opposition is based upon the fact that WCI should be required to comply with the law just like anybody else.

We are in favor of this zoning -- rezoning to residential -- I know it's not before the Board here, but that will go forward because it is zoned industrial at the time. So we do not oppose residential development. But what we are saying is that various site plans, and I believe the representative have indicated that there are various site plans available and that one of the provisions -- or the requirement is if any alternative is available, the variances must be denied. And specifically in response to this variance, this is really the meat and potatoes of the opposition because it involves safety.

So I'd like to read into the record our opposition: That the Cypress Island Property Owners Association is opposed to the referenced petition, Number SD-110. The Cypress Island PUD is comprised of 70 homeowners and a separately operated marina condominium association adjoining the subject property directly to the south and east. The Cypress Island Property Owners Association is responsible for the administration of the entire planned unit development and the enforcement of the terms and conditions of the declarations of covenants and restrictions as it pertains to the entire PUD.

The association is opposed to the granting of the variances that are subject to the petition for the following reasons: The applicant has not satisfied the seven criteria as required under the provisions of the unified land development code. The granting of the variance will not be consistent with the purposes, goals, objectives and policies of the comprehensive plan and the code. One of the very purposes of the plan, as pointed out by Mr. Cuffe -- and we wholeheartedly agree with his staff report -- one of the purposes of the plan and the ULDC is to minimize safety hazards to pedestrians and vehicles along such thoroughfare collector roads as Palmwood Road. And, again, I'd like to point out, in agreement with Mr. Cuffe, that this is a major thoroughfare collector road, as designated by the county. And in a number of years under the comprehensive plan, there probably will be an extension of Frederick Small Road into Marcinski Road on the other side of the Intercoastal. So not only will this become a major thoroughfare, it will become a more major thoroughfare, which would require widening; and the county owns much of that land already.

CHAIRWOMAN KONYK: Can I ask you a question? Your community also objected to the traffic calming?

MR. KOCH: No we did not.

CHAIRWOMAN KONYK: They didn't.

And just one point of clarification, this is not on the five-year thoroughfare plan right now, this isn't proposed to be B

MR. CUFFE: The improvement to Palmwood and the bridge across between Frederick Small and Marcinski are not on the five-year plan at this point.

MR. KOCH: I'll just go back and start that sentence over.

One of the very purposes of the plan and the ULDC is to minimize safety hazards to pedestrians and vehicles along such thoroughfare collected roads as Palmwood Road, which is an extension of the heavily traveled Prosperity Farms Road. The granting of this variance would create very serious safety hazards to pedestrians, joggers, bicyclist, as well as parents with baby carriages, who frequently use the sidewalks along Palmwood Road. The granting of the variance will be detrimental to the area involved and will be a serious detriment to the safety of the general public and the overall public welfare.

The application provides for additional uncontrolled ingress and egress points onto county thoroughfare collector road that will substantially increase the potential for vehicular accidents and serious pedestrian injuries. Such incidents and serious injuries can easily be

avoided by requiring the applicant to comply with the very purposes and spirit of the code by submitting an alternative site plan that does not require any type of variance. We have heard from the applicant itself that they have considered many site plans and site designs. Their own testimony is evidence that a variance should not be granted since alternatives are available.

There are no special conditions and circumstances that are peculiar to this parcel of land that are not applicable to adjacent parcels. The applicant certainly has alternative site plans available that would avert the need for any variances and would minimize the safety hazards to the public.

The need for the variance is clearly self-created. The applicant should be expected by the board to be aware of the development limitations based on the ULDC and the thoroughfare plan that was in effect since 1973 since the applicant purchased the property in 1999. So it sounds like they had 26 years to consider what the requirements were.

The existing driveways on Palmwood Road date to pre-1973 and have been grand-fathered in. The purpose of the plan was to minimize the safety hazards in the future. So to rely on driveways that have been grand-fathered in over 26 years ago is really stretching the point.

Granting the variance will most certainly confer upon the applicant a special privilege that could be denied to any other property owner who may desire to subdivide property along Palmwood Road. The granting of this variance would defeat the very purpose of the ULDC and the thoroughfare plan.

There is no unnecessary and undue hardship for the applicant. The claim that the site will not be developable as a residential property -- and that's a quote -- is not accurate. The applicant can develop the property as a residential property and build high-end residences without any variance being necessary. It just might require a little more creativity to comply with the code. But lack of creativity should certainly not be a rationale for overruling the laws of the county and the state.

The applicant's claim that, again, quote, these variances are the minimum necessary for the reasonable use of the land as a residential development, is equally without merit, since the land can be developed as a residential property with high-end homes achieving the same result without the benefit of any variance whatsoever and without any safety hazards to those people walking along Palmwood Road.

Pursuant to the ULDC, the failure to satisfy any of the listed criteria requires that the variance be denied. This applicant has not met any of the seven criteria involved in SD-110. For these reasons, the Cypress Island Property Owners Association respectfully request that the Board of Adjustment disapprove the application and the petition.

Thank you.

CHAIRWOMAN KONYK: Thank you.

MR. WILMER: Hello. My name is Gary Wilmer and I'm at 14394 Cypress Island Circle and I'd like to go on record as agreeing with Bob Koch, everything he said.

CHAIRWOMAN KONYK: Okay. Thank you.

MR. BANTA: My name is Robert Banta and I'm a resident of Cypress Island and I'd like to go on record as agreeing with the testimony.

CHAIRWOMAN KONYK: Okay. Thank you.

Do you have any response?

MS. WALTER: I think in conclusion what I would just like to do, if I could, is go through the seven criteria and explain to you why we think we do meet all of these criteria based on the testimony that you've heard here today.

Actually, in the staff report -- and staff does agree with us that the uniqueness criteria for this site has been met. It is a very unique piece of property based on its current zoning and its underlying land

use and the development opportunities being either commercial or residential.

We don't feel that this is a self-created condition. When the property was purchased, a reasonable assumption could have been made that a restaurant could have been put here based on the commercial recreation land use. Not necessitating any variances, that use actually is a permitted use. What has transpired over the years as the property owner has reviewed the development options and recognizing, that if we were proposing a restaurant, you'd have hundreds of people here, the residential development proposal is the one that is the most reasonable.

We have a land use designation of LR-2, which essentially says we can get up to two units an acre. We can't fit two units an acre on this site. Our density is 1.23, I believe. However, what has been done is a reasonable plan has been proposed and this plan is the one with the minimal number of variances. Yes, there's other alternatives for this site. And I do want to make one point clear; this piece of property is not part of Cypress Island PUD. So I just wanted to make everybody aware that it's not under the purview of the property owners association. It's actually a free-standing parcel.

In regards to no special privilege, if there's anybody else who has an industrial parcel of property in a residential neighborhood on a major street with Intercoastal frontage, I would hope that they would be given this same consideration. It's a very unique piece of property. There are policies in the comprehensive plan that encourage in-fill development. This project is essentially following those policies. And I'm actually pleased to have an opportunity to stand up here today and represent an in-fill project, as opposed to the projects we typically represent which could essentially be classified as sprawl in the western community. This is an opportunity for those policies to actually be implemented.

It would be an undue hardship to not grant this variance. As you can see from the site configuration, this portion of the site is extremely narrow. There is no way to accommodate the minimum local street standard, which is a 50-foot right of way, with some type of cul-de-sac or radius to get back to Palmwood Road. And so by not allowing these three lots, which again is the minimal number of lots that we're able to accommodate, to have access and prohibit that creation, really is an undo hardship on the site. It is, as I mentioned, the minimum variance. We're able to design the site so that four lots actually do comply with code and have access off of a local street. It's only the remaining three lots that could not be accommodated.

In regards to public welfare, I think you heard testimony from Ms. Mulcahy, that although this road is classified as a thoroughfare road, it functions as a local road, very low speed limit, very low amount of traffic on the road. As I mentioned, the site has been designed so there are no conflicts with driveways, and they'll never be conflicts with driveways on the west side because of the Bear's Club development.

Also the plan has committed that each of those three lots will have an auto court, so that no one will ever have to back up onto Palmwood Road. You'll be able to -- owners will be able to come on the site, turn around and go headfirst, essentially, out onto Palmwood Road, which is the safest configuration that we can have for those driveways. And so in that regard, we do feel that we're providing a very safe situation.

In regards to the code's intent, the code's intent is to not dump a lot of direct direction, as Mr. Cuffe stated, onto a road where you're causing confusion, where you're causing conflicts, where you're putting entrance drives where people are not expecting them. This is a residential road. There's entrance drives all up and down the road. Anyone who drives it is actually anticipating that there's going to be a driveway coming up on their left or their right. That's why it's posted as a low rate of speed and why the county recently put traffic calming measures in.

So we feel that we meet all of the criteria for the variance. Thank you very much.

CHAIRWOMAN KONYK: Thank you.

Close the public portion of the hearing.
Does any Board Member have any questions?
(No response).

CHAIRWOMAN KONYK: Seeing none, is anyone prepared to make a motion on this item?

MS. CARDONE: Madam Chairman, I would move that we allow this Subdivision SD-110, the variance that they are requesting -- are there any conditions?

MR. CUFFE: No.

MS. CARDONE: My motion would be to allow the variance that they are requesting for SD-110.

CHAIRWOMAN KONYK: We have a motion by Ms. Cardone.

MR. SADOFF: I second it.

CHAIRWOMAN KONYK: Seconded by Mr. Sadoff.

Any discussion?

(No response)

CHAIRWOMAN KONYK: All those in favor?

BOARD MEMBERS: Aye.

CHAIRWOMAN KONYK: Opposed

(No response).

CHAIRWOMAN KONYK: Motion carries unanimously.

MS. WALTER: Thank you very much for your time and consideration.

CHAIRWOMAN KONYK: The next item on the agenda is the attendance record.

We had Mr. Sadoff, that was ill, and Mr. Puzzitiello, who was away on business.

Can I have a motion to accept these as excused absences?

MR. CUNNINGHAM: So moved.

VICE CHAIRMAN BASEHART: Second.

CHAIRWOMAN KONYK: Motion by Mr. Cunningham, seconded by Mr. Basehart.

All those in favor.

BOARD MEMBERS: Aye.

CHAIRWOMAN KONYK: Motion carries.

See you next month.

(At 10:18 a.m., the meeting was concluded.)

CERTIFICATE

STATE OF FLORIDA)

COUNTY OF PALM BEACH)

I, SHIRLEY KING , do hereby certify that I was authorized to and did stenographically report the foregoing meeting; and that the transcript is a true and correct transcription of the testimony.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 6th day of January, 2003.

Shirley King
Professional Reporter