

MINUTES

PALM BEACH COUNTY

BOARD OF ADJUSTMENT MEETING

SEPTEMBER 16, 1999

9:10 A.M. - 9:33 A.M.

ADDRESS

100 AUSTRALIAN AVENUE
WEST PALM BEACH, FLORIDA 33406

APPEARANCES OF BOARD MEMBERS:

GLENN WICHINSKY
JOSEPH JACOBS
RAYMOND PUZZITIELLO
NANCY CARDONE
STEVEN RUBIN
ROBERT BASEHART
CHAIR PERSON KONYK

APPEARANCES OF STAFF:

DAVID CUFFE
LAURA BEEBE, COUNTY ATTORNEY
JOHN MacGILLIS
JOYCE CAI

I N D E X

- BOFA 9900009 Dora Mancuso, to allow the existing glass block windows to be replaced with awning windows in the zero lot line wall. LOC: 10536 Grande Palladium Way, approximately 450 ft. E of Lawrence Rd. and .5 miles N of Woolbright Rd., within the Twin Lakes PUD Zoning District, (PET. 95-092). (5)
- BATE 99-00067 David J. Felton, as agent for Standard Oil Company, a Division of Chevron Oil Company, a California Corp., to allow for a one-year time extension on Conditions #2 and the development order for BofA 98-00073, approved Sept. 17, 1998. LOC: 7035 N Camino Real, at the NW intersection of Camino Real & Powerline Road, in the CG Zoning District. (9)
- BOFA 9900068 Mel Leistner, as agent for Aberdeen Golf & Country Club, Inc., to allow modifications to an existing Entrance Wall sign that would allow for an increase in the maximum sign face area and lettering that is existing, however, due to the proposed alterations will exceed the current sign code requirements. LOC: 8251 Aberdeen Dr., SW corner of Jog Road and Le Chalet Blvd., within the Aberdeen PUD subdivision, in the RE/SE PUD zoning district. (PET. 80-153) (10)
- BOFA 9900070 Kilday & Associates, agent for Mazzone Farms, Inc., and Mazzone Revocable Trust, to exceed the maximum distance required between residential & recreational uses. LOC: Vacant parcel, adjacent to Hagen Ranch Rd. to the west, approximately 1,300 feet N of Sims Rd. and 2,000 feet west of Jog Rd. & adjacent of the L30 canal, within the Valencia Grand Isles PUD (aka Polo Trace PRD), in the RS Zoning district. (PET. 89-019) (13)
- BOFA 9900075 Chris Macri, agent for Harold & Elizabeth Macri, to allow a proposed SFD to encroach into the required rear setback. LOC: 16965 Temple Blvd. (80th Str.) NE corner of Temple Blvd. and 170th Canal, in the AR Zoning District. (20)

CHAIR PERSON KONYK: Welcome to the Palm Beach County Board of Adjustment, September 16, 1999 meeting.

We'll start with the roll call and declaration of quorum.

MS. MOODY: Mr. Bob Basehart?

MR. BASEHART: Here.

MS. MOODY: Mr. Joseph Jacobs?

MR. JACOBS: Here.

MS. MOODY: Ms. Nancy Cardone?

MS. CARDONE: Here.

MS. MOODY: Mr. Raymond Puzzitiello?

(No response.)

MS. MOODY: Mr. Glenn Wichinsky?

MR. WICHINSKY: Here.

MS. MOODY: Mr. Stanley Misroch?

(No. response.)

MS. MOODY: Mr. Steven Rubin?

MR. RUBIN: Here.

MS. MOODY: Ms. Chelle Konyk?

CHAIR PERSON KONYK: Here.

I have before me proof of publication in the Palm Beach Post on August 29, 1999.

Next item on the agenda is remarks of the Chair.

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 either with or without conditions. The applicant agrees with the conditions. There's no opposition from the public, and the Board members agree that the items can remain on the consent.

If you do not -- if the applicant does not agree with the conditions or a Board member feels the item warrants a full hearing or there is opposition from the public, the item will be reordered to the regular agenda. Items on the regular agenda are items that have either been recommended for denial by staff or the applicant does not free with the conditions or there is opposition from the public or a Board member feels the item warrants a full hearing.

The item will be introduced by staff. The applicant will then give their presentation. The staff will give their presentation. We'll hear from the public. After the public portion of the hearing is closed, the Board members will have an opportunity to ask questions of the staff and the applicant and then vote on the item.

Next item on the agenda is approval of the minutes of the August what 19, 1999 meeting. Everyone received a copy of the minutes.

Does anybody have any corrections or additions?

(No response.)

CHAIR PERSON KONYK: Seeing none, is someone prepared to make a motion for approval?

MR. JACOBS: So moved.

CHAIR PERSON KONYK: Motion by Mr. Jacobs. Second by --

MR. RUBIN: I just had a question. The disk says it's the minutes of the 16th. Is it the 16th or the

CHAIR PERSON KONYK: What was the date of the last meeting?

MS. MOODY: 19th.

CHAIR PERSON KONYK: Okay. We have a motion by Mr.

Jacobs.

Second by?

MR. RUBIN: Second.

CHAIR PERSON KONYK: By Mr. Rubin.

All those in favor?

(Panel indicates aye.)

CHAIR PERSON KONYK: Motion carries unanimously.

Next items is remarks of the zoning director.

MR. MacGILLIS: Just for the record, September 28, 1999, is when the BCC is considering the amendments to the ULDC for the quorum; so, hopefully -- it's been postponed several months. There was some other code stuff attached to that same set of amendments that were going to the Board that's been controversial. So hopefully, this month.

CHAIR PERSON KONYK: Are there any changes to the agenda?

MR. MacGILLIS: Yes. There's a request for three postponements on the regular agenda items, which is number 10, 11 and 12. BA 99-72, BA 99-73 and BA 99-74. Land Design South, agent for Kenco Communities. Joe Lalonic, the agent is here. We did get a letter this morning requesting a postponement, but he did contact us on Monday wanting additional time to meet with staff to review our recommendation of denial on some of these requests.

Staff has no problem with the postponement for thirty days. This is by right?

CHAIR PERSON KONYK: Okay. So item BA of A 99-00072, 00073 and 00074 will receive -- is it a thirty-day postponement?

MR. MacGILLIS: Yes.

That will be to time certain October 21, 1999 in room 441.

CHAIR PERSON KONYK: Anything else?

MR. MacGILLIS: The item 13, the BATE 99-90, that can be put on the consent agenda as item number 10.

CHAIR PERSON KONYK: Okay. So BATE 99-00090 will be moved to the consent agenda.

The first item for postponement is Board of Adjustment administrative appeal, number 99-00019, asking for a thirty-day postponement.

Is that by right?

MR. MacGILLIS: No. I don't believe -- Mr. Kito is here. Unfortunately, we were out the last two days. I tried contacting him. I'm almost sure that this will be off the agenda next month. We're almost at the final stage of working this out.

The agent had asked informally for thirty days, but I believe he would have. I tried contacting him this morning, but...staff has no problem with the postponement. This will be the sixth postponement, and, hopefully, the last.

MR. BASEHART: You believe that this will be worked out?

MR. MacGILLIS: Yes. Right.

MR. BASEHART: Okay.

CHAIR PERSON KONYK: It might not even be a postponement. It may just be withdrawn. Is that it?

MR. MacGILLIS: It will be withdrawn.

CHAIR PERSON KONYK: Okay. So we need -- do we need to vote on this?

MR. MacGILLIS: Yes.

MR. BASEHART: Madam Chair, I make a motion that we postpone BAAA 99-00019 for thirty days.

CHAIR PERSON KONYK: To time certain on 10/21/99?

MR. BASEHART: Yes.

CHAIR PERSON KONYK: Motion by Mr. Basehart.

Second by?

MR. WICHINSKY: Second.

CHAIR PERSON KONYK: Mr. Wichinsky.

All those in favor?

MR. RUBIN: Madam Chair?

CHAIR PERSON KONYK: Yes.

MR. RUBIN: I just wanted to know if there's any members of the public who are here on that item?

CHAIR PERSON KONYK: Well, it's listed as a thirty-day postponement.

Is there any members of the public here for this item?

(No response.)

CHAIR PERSON KONYK: Seeing none, we have a second and a motion.

All those in favor?

(Panel indicates aye.)

CHAIR PERSON KONYK: Motion carries unanimously.

Next item for postponement is B of A 99-00071.

MR. MacGILLIS: This is the first thirty-day request by the applicant. He's working out some authorization from the owner of the property. Staff supports the thirty-day postponement. We got the letter five days prior --

THE COURT: So it's by right?

MR. MacGILLIS: Yes.

CHAIR PERSON KONYK: Okay. So B of A 99-00071 will be Postponed to 10/21/99?

B of A 99-00076. Betty Resch as agent for Nanette Sexton, to allow an existing accessory structure to encroach into the required setback.

Is the applicant present on this one?

MR. MacGILLIS: This is another thirty-day postponement by right. We did receive a letter five days prior to the meeting. The applicant is working out some issues with staff in order to identify the exact structure that are coming in for variance. Therefore, staff supports a thirty-day by right.

CHAIR PERSON KONYK: Okay. No need to vote on that.

B of A 99-00077, postponement thirty-day. Is that by right?

MR. MacGILLIS: It's by right. The applicant -- we're hoping this will be withdrawn next month with the code revisions that are being proceed on September 28th hopefully will eliminate the need for the two variances.

CHAIR PERSON KONYK: Okay. So in addition to the four items listed that have been postponed, we have the three additional items that have been added to the thirty-day postponement.

Move to the consent.

First item on consent is B of A 99-00009, Dora Mancuso, to allow the existing glass bock windows to be replaced with awning windows.

Is the applicant present?

MS. MANCUSO: Yes.

CHAIR PERSON KONYK: The staff has recommended four conditions.

Do you understand and agree with those conditions?
Your name, for the record?

MS. MANCUSO: Dora Mancuso.

CHAIR PERSON KONYK: Staff has recommended four conditions.

Do you understand and agree with those conditions?

MS. MANCUSO: Yes, I do.

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

(No response.)

CHAIR PERSON KONYK: Are there any letters?

MR. MacGILLIS: There are two letters from Mr. Harmon and Getno. Both have no objections to the request.

CHAIR PERSON KONYK: Any Board member feel this item needs to be pulled from the consent?

(No response.)

CHAIR PERSON KONYK: Seeing none, your item will remain on the consent agenda. You can sit down.

STAFF RECOMMENDATIONS

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

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE

PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE,

THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND,

STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

YES. The subject property is within Twin Lakes PUD, a 144-dwelling-unit zero lot line development and the adjacent property across the canal to the north is within Lexington Lakes PUD (f/k/a Jasmine Place), a 137-dwelling-unit single family patio home development. The subject lot as well as the structure on the lot are conforming. To the south and the west of the subject lot are single family zero lot line homes. Abutting the subject lot on the north and the east are 10-foot-wide PUD landscape buffers, 85-foot-wide canal right-of-way and a golf course.

Special conditions and circumstances are peculiar to this parcel of land by the fact that the subject property is an end lot and does not abut another unit to the north, where the requested windows are proposed to replace the existing glass blocks. The open spaces to the north and the east would mitigate any impacts of the variance request. In addition, the adjacent house across the canal to the requested windows is well buffered by a 6-foot-high mature hedge along the canal obstructing most of the views of the house from the proposed windows.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE THE RESULT OF

ACTIONS OF THE APPLICANT:

NO. the ULDC does not address zero lot line units abutting onto a common open space with respect to openings in the zero lot line wall. As previously stated, the subject lot is located as a last lot on a local street. It abuts a common open space (85-foot-wide canal) to the north of the zero lot line and a golf course to the east of the rear property line. Additionally, 10-foot-wide PUD

landscape buffers exist along the subject zero lot line while a 15-foot landscape buffer exists along the neighboring side property line across the canal. These special circumstances and conditions are not the result of actions of the applicant, instead, the applicant is proposing an opening in the zero lot line wall that will make the best use of the lot's visual amenities by making openings onto open space areas to enhance the vistas from the unit as well as providing additional light into the dwelling.

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

NO. Granting the variance will not confer special privileges upon the applicant denied by the Code to other applicants because, in this particular case, there is no contiguous unit to the north. the Zero Lot Line closure is a requirement intended to provide and ensure privacy between units. Other dwellings which are not abutting onto an open space must comply with Code requirements. Due to the above-mentioned special circumstances, the privacy code requirement should be eliminated to the subject property.

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

YES. A literal interpretation of the provisions of the ULDC Code would work an unnecessary hardship onto the applicant because the end-unit dwelling condition differs from those applying for interior units that have another unit adjacent to them. Due to the placement of this end-unit and the fact that a 85-foot-wide canal right-of-way and a golf course are contiguous to the zero lot line and the rear property line wall, this application can be given special consideration. Granting the variance would provide additional light and enhance the visual vistas for the subject dwelling.

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

YES. As previously indicated, the subject lot has a unique placement that it is a last site at a dead-ended local street and is adjacent to a 10-foot-wide PUD landscape buffer and a dedicated open space (an 85' canal right-of-way) along the subject zero lot line to the north. As previously stated, the adjacent property to the zero lot line is heavily screened by a 15-foot-wide landscape buffer and a 6-foot-high mature hedge. Taking these factors into consideration, the approval of the variance is the minimum variance that would allow a reasonable use of the parcel of lot or structure. The proposed openings will allow the property owner the maximum use of light, air and vistas from the unit, while simultaneously, the intent of the Code will be satisfied.

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

YES. Granting the requested variance will be consistent with the purpose and objectives of the Comprehensive Plan and ULDC. The intent of the Code to restrict openings on the zero lot line side is to ensure privacy to the adjoining lot owners. This is due to the zero lot line lots and homes have a relatively limited outdoor area and the setback separation between units is minimal and openings could detract the property owners from enjoyment of their lots or homes. As stated previously, the requested openings would be mitigated by the existing common open spaces which provide adequate separation between the subject lot and the adjacent property.

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

NO. Granting the variance will not be injurious to the area involved. Due to the special lot location, the window openings in the zero lot line wall will not have a negative affect on the surrounding area or the adjacent property, which are single family dwellings to the north (separated by an 85' canal ROW and two PUD landscape buffers and one hedge), south and west and a golf course to the east. The direct effect, which will be an additional openness within the dwelling will be beneficial to the property owner and will not be injurious to anyone in the surrounding neighborhood.

ENGINEERING COMMENTS

NONE (ENG)

ZONING CONDITION(S)

1. By May 16, 2000, the property owner shall provide the Building Division with a copy of the Board of Adjustment Result letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. (DATE-BLDG PERMIT: BLDG)
2. By July 16, 2000, the applicant shall obtain a building permit to replace the existing glass block windows with the awning windows in the zero line wall. (DATE-MONITORING - Bldg Permit)
3. The variance is limited to the zero lot unit on lot #49. (On-going)
4. By October 16, 1999, the BA Zoning staff shall ensure the certified site plan has a notation on Lot 49 indicating the approved variance. (DATE: MONITORING-ZONING-BA)

CHAIR PERSON KONYK: Board of Adjustment time extension, David -- 99-00067, David Felton as agent for Standard Oil, Division of Chevron, to allow for a one-year time extension on conditions two in the development order for B of A 98-00073 through September 17, 1998.

The applicant is present.

MR. FELTON: Yes.

CHAIR PERSON KONYK: Your name, for the record.

MR. FELTON: David Felton on behalf of Chevron.

CHAIR PERSON KONYK: The staff as recommended four conditions.

Do you understand and agree with those conditions?

MR. FELTON: Yes, ma'am.

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

(No response.)

CHAIR PERSON KONYK: Any letters?

MR. MacGILLIS: It's a BATE. There's no --

CHAIR PERSON KONYK: Oh, okay. No letters.

Any Board member feel that this item does not warrant a time extension?

(No response.)

CHAIR PERSON KONYK: Seeing none, your item will remain on the consent.

MR. FELTON: Thank you.

STAFF RECOMMENDATIONS

Staff recommends approval of one year for condition #2 from July 17, 1999, to July 17, 2000. And a one-year time extension for the Development Order, from September 17, 1999, to September 17, 2000, consistent with Section 5.7.H.2 of the ULDC, to provide additional time for the petitioner to commence development and implement the approved variances.

The property owner has been proceeding in good faith to implement the development order and comply with conditions of approval. The one-year time extension will allow the necessary time for the new lessee to decide if the approved modifications to the site will be fully implemented.

The applicant shall comply with all provisions conditions of approval for BA98-73, unless modified herein:

ZONING CONDITIONS

1. The property owner shall provide the Building division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. (BLDG PERMIT: BLDG)
2. The applicant shall obtain a building permit for the 2,122 square foot convenience store. (DATE: MONITORING-Bldg)
3. Prior to July 17, 1999, the applicant shall provide the zoning division staff with proof that the Utility Agreement form to allow the existing landscaping in the buffer along Power Line Road has been secured. (DATE: MONITORING-Zoning-BA) Completed 9/4/98.

4. This variance approval is contingent upon this specific use, convenience store and gasoline sales. (ONGOING)

ENGINEERING COMMENT

No comment. (ENG)

CHAIR PERSON KONYK: Next item on consent is B of A 99-00068, Mel Leistner, as agent for Aberdeen Golf & Country Club, to allow modifications to an existing entrance wall sign that would allow for an increase in the maximum sign face area and lettering that is existing.

Is the applicant present?

MR. SHEODA: Yes.

CHAIR PERSON KONYK: Your name, for the record?

MR. SHEODA: My name is Dennis Sheoda, and I'm acting as agent. Mr. Leistner passed away Monday due to a stroke.

But we -- I have saw the --

THE COURT: Three conditions.

And you understand and agree with them?

MR. SHEODA: Yes, ma'am.

CHAIR PERSON KONYK: Any member of the public to speak on this item?

(No response.)

CHAIR PERSON KONYK: Any letters?

MR. MacGILLIS: One letter for approval. I think it's an excellent idea.

CHAIR PERSON KONYK: Any Board member feel this item warrants a full hearing?

(No response.)

CHAIR PERSON KONYK: Seeing none, your item will remain on the consent.

MR. SHEODA: 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.

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

YES. The requested entrance wall sign is located at 8477 Aberdeen Dr. and on the SW corner of Jog Rd. and Le Chalet Blvd., within Tract A (Golf Course) of the Aberdeen PUD subdivision in the RS/SE PUD zoning district. (Pet. 80-153). The subject sign was constructed in 1985 and

used to identify the Aberdeen Golf and Country Club.

Due to the extension of Jog Road and erection of a guard rail on the west side as well as raised road elevation, the existing sign was relatively lowered down and caused the sign to be hardly seen from the Jog Road, which is the main road that the sign serves to identify to. Therefore, to make the sign visible from the Jog Road, the applicant is proposing to move the existing letters of the sign from the side of the retaining wall and place them on a new wall on top of the retaining wall in the same location. By doing so, the existing letters will gain approximately 8 ft. from the existing elevation which will make them to be visible from the Jog Road.

The revision of sign code in 1992 established more restrictive requirements and consequently made this sign as non-conforming. Modification of the existing sign for the purpose of obtaining better visibility from Jog Road needs to comply with the current code requirement. Therefore, special conditions and circumstances exist that are peculiar to the parcel of land, building or structure.

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

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

As previously stated, due to the extension of the Jog Road, the road elevation was raised resulting in the subject sign to be relatively lowered and obstructed from the Jog Road. Consequently, the applicant lost a reasonable use of the entrance wall sign which is permitted.

As previously stated, the purpose of moving the existing letters up is to gain 8-foot elevation from the existing location in order to obtain visibility from the Jog Road, which is the major road that provides access to the visitors to the clubhouse. Except elevating the existing letters, no other changes to the existing sign is requested in this application.

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

NO. Entrance wall sign is permitted by the code as a development identification sign in the Aberdeen development where the existing sign is located. In addition, the location of the subject entrance wall sign was approved by the Aberdeen PUD Master Plan and was installed since 1985. The requested variances will not change the existing appearance such as lettering size and style. the only modification is to move the existing letters to a new wall, which will be situated on top of the retaining wall where the existing letters are attached to. The new wall will be constructed in the same location with a max. 4' setback from the retaining wall. the requested sign will provide the same identification by using the existing letters, therefore, granting the requested variances will not grant any special privilege

on the property owner.

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

YES. A literal interpretation and enforcement of the code will deprive the applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship.

As previously stated, the existing entrance wall sign became non-conforming after the revision of sign code in 1992. The elevated Jog Road due to its extension obstructed the sign visibility from the road and reduced the effectiveness of the sign to direct motorists to the clubhouse. Even though variances are requested for the existing sign to comply with the current code to obtain street visibility, the requested sign still meets with the general intent of the code which is to establish standards for permitting signage in Palm Beach County. This entrance sign only identifies the Country Club and is critical to residents and visitors traveling Jog Road to identify where to exit and travel to the site.

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

YES. The approval of variance is the minimum variance that will allow a reasonable use of the parcel of land, building or structure. As previously indicated, the only modification to the existing sign is to move the existing letters up by 8 feet to a new wall, which will be constructed on top of the retaining wall where the existing sign is attached. The new wall will be located in the same place with an exception of a max. 4' setback from the retaining wall. No additional change to the sign itself such as lettering size and style is requested in this application.

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

YES. Grant of the variance will be consistent with the purposes, goals, objectives and policies of the comprehensive plan and this code.

the Comprehensive Plan's goal to protect the public safety and welfare will not be compromised by the granting of the variance proposals. The purpose of on-site signage is to provide identification for the residential development and direct residents and visitors to on-site amenities. The variances are compatible with the sign code's purpose which is to identify and direct residents and visitors to the various uses on-site. The requested variances, if granted, will meet the applicant's and the users' needs. In addition, granting of the variance will not negatively impact the surrounding areas. The modified sign will be situated in the same location as the existing

sign is an well enhanced by existing landscaping and the lake that is located between Jog Road and the sign.

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

NO. the variances, if granted, will not be injurious to the surrounding area. As stated previously, the existing letters will be replaced on a new wall in the same location. Behind the new wall is an existing hedge wall and mature palm trees. In addition, the existing sign is situated within the golf course tract and setback approximately 120' from the north property line abutting Le Chalet Blvd. and 140' from the east property line abutting Jog Road. Therefore, by elevating the existing letters in the same location will not impose any adverse impacts on the surrounding areas. Further, it is critical for motorists traveling to the clubhouse along Jog Road have clear visibility of directional signage in order to exit traffic in a timely manner.

ENGINEERING COMMENT(S)

No Comment. (ENG)

ZONING CONDITION(S)

1. By April 16, 2000, the property owner shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. (BLDG PERMIT: BLDG)
2. By June 16, 2000, the property owner shall obtain building permit to modify the existing sign as indicated on the exhibit 9 in the BA99-068 file. (DATE:MONITORING-BLDG. PERMIT)
3. The entrance wall sign shall be limited to the following:
Sign Face Area: 160 sq. ft.; Lettering Height: 36 inches.
(ONGOING)

CHAIR PERSON KONYK: Next item on the consent is B of A 99-00070, Kilday and Associates, agent for Mazzone Farms and Mazzone revocable trust, to exceed the maximum distance required between residential and recreational uses.

Applicant present?

MS. ANDERSON: Yes.

CHAIR PERSON KONYK: Your name for the record?

MS. ANDERSON: Candy Anderson, Kilday and Associates.

CHAIR PERSON KONYK: Staff has recommended six conditions.

Do you understand and agree with those conditions?

MS. ANDERSON: Yes, I do.

There have been some minor modifications.

MR. MacGILLIS: Yes. On page forty-six of your back-up material, the zoning conditions, number three. Just so there's no misunderstanding at the time of platting, the applicant has requested -- where it refers to open space amenities. Strike that out and replace it with the word neighborhood amenities. That's the only change on condition number three.

Condition number four, the first line where it says open space recreational amenities. Strike that and replace it with neighborhood amenities. Further down in that same condition it shall be shown on the final plat, instead of platting, and designated as neighborhood amenity/open space or as approved by the zoning division and dedicated to the master home association. That's the only changes to condition number four.

And condition number five, first line, the designated -- strike open space recreational amenities and replace it with neighborhood amenities.

Also I just want to clarify stuff in the back-up material. On page thirty-seven, there was reference to the zoning being RS. That should be AR/RS. And on page thirty-eight of the staff report, just for the record, so it's clear, there will not be a recreational amenity in each of the parcels which was indicated in the staff report.

That does not change staff's recommendation for approval on this request.

CHAIR PERSON KONYK: So do you understand and agree with the conditions as modified?

MS. ANDERSON: Yes, we do.

CHAIR PERSON KONYK: Any member of the public to speak on this item?

(No response.)

CHAIR PERSON KONYK: Any letters?

MR. MacGILLIS: We did have letters from one of the developments to -- on the west side of Hagen Ranch Road. But, primarily, the concerns were, if this recreation area had any affect on their project, which it does not. So..

CHAIR PERSON KONYK: Any board member feel this item warrants a full hearing?

MR. JACOBS: I just have a question. And that is, what's the difference between open space and neighborhood? Why was it the change made?

MR. MacGILLIS: It comes down to the Parks and Recreation Department has a definition of what they consider to be recreation. It confuses staff when it comes back in in terms of platting because all recreation aeriels have to be platted.

Therefore, the recreation department does not want us to consider these because they don't meet their minimum threshold for rec areas. And they are not rec areas. They are just amenities above and beyond the open space requirements. Therefore, it's -- technical reasons for platting and for the definition of what the recreation determines the minimum, a tenth of an acre, to meet the area -- or an acre, I believe it is.

CHAIR PERSON KONYK: Any board member feel this item warrants a full hearing?

(No response.)

Seeing none, item B of A 99-00070 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.

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

YES. There are unique characteristics to this proposed residential Planned Unit Development that warrants special consideration when applying the literal interpretation of the distance between dwelling units and recreation facilities. This property has a land use classification of MR-5, however, will have an overall density of only 3.4 dwelling units an acre. This lower density was made a condition of the land use amendment in 1998 by the Board of County Commissioners. The development will support a total of 788 dwelling units, 168 single-family and 620 zero lot line. The project is located adjacent to Hagen Ranch Road and the L-30 Canal, north of Sims Road. The proposed site layout has 9 residential pods, each supporting a lake. There is also a large 23 acre lake in the center of the development which is the focus of the project as one enters the site from Hagen Ranch Road and drives around the 80 foot wide interior loop road. The entrance of Hagen Ranch Road is designed to provide a sense of entrance to the property owner as they enter the site which is flanked by 2 acre lakes on both sides and leading to the 23 acre lake with a view of the recreation pod across the it. The applicant is also providing two recreation tracts which will total 8.30 acres, double the 3.37 acre requirement by code. The applicant is also proposing to construct 5 "neighborhood amenities" that are located at different locations throughout the development. These amenities are provided at different locations along the 23 acre lake and along the 8 foot wide walkway around the 80 foot right-of-way and will provide such amenities, as gazebo, benches, arbor, shade rest areas, stretching station, etc. The applicant is proposing a 6.98 acre recreational facility will provide a large "community" facility that will offer many indoor and outdoor activities. The applicant's client has designed similar adult orientated communities, within the general vicinity, which are near to build-out within the next year. These communities have age restrictions that limits the residents to traditionally older couples who are retired.

These residents enjoy the large recreational facility since it functions as a community meeting place. It offers them many amenities that a smaller facility could not. The proposed pedestrian walkway linked to these two recreational facilities has been proven to function effectively in other developments; and, therefore, will meet the general intent of the code requirement as to the maximum distance between residential units and recreational facilities.

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

NO. The is not a self created hardship. The applicant's client, GL Homes, has constructed residential subdivisions along Hagen Ranch Road that have a similar site layout and amenities, especially in terms of a large recreational facility rather than several smaller sites located throughout the development. These subdivisions have been very successful in attracting a resident that is typically older and looking for upgraded amenities in terms of unit features, site layout and recreational facilities. The applicant's client is proposing to provide twice the amount of recreation as required by code. Also, this site will have considerable open space which is created by the expansive 23 acre lot in the center of the development on those lakes within the individual Pods. There is also considerable money dedicated to upgraded landscaping throughout the development. There will also be an 8 foot wide side walk that runs parallel to the 80 foot right-of-way that loops around the lake throughout the development. There will be adequate sidewalks in the front of each dwelling unit that will allow a resident to have easy access to the recreational facilities. The site layout encourages the resident to enjoy the development as much as possible by being able to walk to the facilities instead of having to take ones vehicle.

Therefore, the applicant's client has demonstrated that through other similar type residential communities that have been built or are nearing completion that a larger recreational facility that will provide an array of community uses and services which is more desirable to the residents. The applicant's proposal is unique in that it will provide double the required recreation space in addition to providing small neighborhood open spaces (total of 5) throughout the neighborhood to lessen the distance from the units to the recreational facility.

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

NO. The granting of this variance will not grant any special privilege on the applicant. The applicant has demonstrated compliance with the general intent of the code. The applicant is proposing to provide double the amount of recreation space as required by Article 17 (parks and recreation) requirements of the ULDC. The proposal is to construct a clubhouse facility on the 6.9 acre parcel at the western portion of the site while a smaller structure will be constructed on the 1.31 acre recreation parcel located near the entrance of Hagen Ranch Road. Both recreation facilities will be accessed by residents by 8 foot wide walkways that run parallel to the 80 foot right-of-way that loops around the subdivision and lake. There will be 5 small open space neighborhood amenities located along the walkways leading to the recreation facilities that will provide for resting and seating areas for the residents as the walk to their destination. The maximum walking distance being proposed

between a residential unit and an open space amenity is 2,100 feet, which will occur between the units in Pod B and the open space amenity. The other distances range from 1,060 feet to 2,015 feet. (See diagram).

The general intent of the code is to ensure a resident has to walk a reasonable distance, which the ULDC establishes at 1,320 feet, (length 4 football fields) from their unit to the recreation amenity or pod. The applicant is proposing a community that will encourage residents to walk along sidewalks that runs parallel to the 23 acre lake. In addition, the proposed open-space amenities will provide the resident with rest areas to stop and sit, if they choose, as they walk to their destination. Other subdivisions that GL Homes has constructed have a similar recreational amenities that the residents enjoy and use on a regular basis. Many of the residents enjoy walking along the scenic paths in these subdivision and it has been a strong selling point for the project. Therefore, the variance to increase the distance from 1,320 feet to 2,100 feet for a 780 foot distance is reasonable based on the facts.

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

YES. GL Homes has constructed communities within the general vicinity of this project along Hagen Ranch Road that have similar amenities for the residents. Many interested buyers have visited these developments and are looking for similar features in this community. There are several features to this development that make it attractive to the buyer: upgraded landscaping, large lakes with pathways, larger clubhouse facility that functions as a community center. The applicant is requesting a variance that would allow the clubhouse to be located on the east side of the lake on Tract 1. When the resident enters the site of Hagen Ranch Road, they will pass two lakes on both sides of the entrance and travel to a point where they look out over the 23 acre lake and the clubhouse facility beyond. the clubhouse will provide an array of amenities within this adult orientated community. Many services will be provided to the residents without having to leave the development. Many of these services can only be accommodated properly on a larger site and building. This 6.98 acre recreation site will provide adequate space to accommodate the building and outdoor activities while providing buffering and landscaping to mitigate any negative impacts associated with the activities. In order for the applicant's client to meet with literal intent of the code requirement that no unit be further than 1,320 feet from the recreation facility then there would have to be many smaller recreation parcels throughout the development. This would defeat the overall goal of the developer to provide an environment that fosters a community meeting place at this larger clubhouse facility. The developer is willing to provide smaller open space amenities between the units and recreation facilities in order to lessen the impact on

residents having to walk the proposed furthest distance of 2,100 feet (length of 7 football fields).

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

YES. The applicant had originally requested a variance to allow the furthest distance to be 3,740 feet between particular residences and the recreation facility/amenities. After consulting with staff the site plan was modified to lessen the distance to 2,100 feet.

The proposed modifications to the site plan since the original application was submitted, demonstrates the minimum variance necessary in order to allow this residential development to move forward. GL Homes is confident this proposed subdivision will meet the needs of the residents. Other developments they have constructed are currently sold out were so successful based in part on the large clubhouse facility and the other community amenities provided.

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

YES. This project has a standard land use classification of MR-5 units per acre by right and with a PUD zoning classification can receive a density bonus. However, when this property received the land use classification in 1998, the Board of County Commission, limited the overall density to 3.37 units per acre. This will ensure this project has density consistent with other projects that surround it. The developer has constructed two other similar type communities along Hagen Ranch Road.

These communities are either built out or nearing completion. The communities have adult communities that offer retirees a quality of life they are looking for in terms of amenities. Therefore, this proposal is consistent with the intent of the Comp Plan which is to encourage residential communities that foster the highest quality of living for the residents and respects surrounding land uses. The ULDC code requirement that requires the maximum distance between residential and recreation uses not to exceed 1,320 feet is to encourage pedestrian orientated communities. Studies have shown that the people will only walk a certain distance to reach a particular distance. In a residential community, typically, a person will only walk 1,320 feet comfortably. Any greater distance will require the use of their vehicle. The applicant is proposing the furthest distance to be 2,100 feet for a 780 foot variance. However, the applicant is in return providing 5 open space amenities that will provide rest stop as one walks to the two designated recreation parcels. The applicant has clearly justified that the larger clubhouse that has been constructed in other developments acts as a community center for the residents. It allows them a place to meet for recreation, dining, classes, etc. that many of the retired residents look forward to on a daily basis. Many of the proposed amenities that will be accommodated in the clubhouse could not be provided in the smaller clubhouse

building that would have to be constructed in order to meet this 1,320 distance criteria.

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

NO. The granting of this variance will not be injurious to the surrounding communities or this proposed residential community. The applicant's client, GL Homes, has built or has under construction subdivisions that are similar in terms of layout, appearance and amenities. These subdivisions are adult restricted communities that provide the resident with a quality of life that is enhanced by the amenities provided. The units have upgrades, the common areas have upgrade landscaping, and the recreation areas have amenities that go beyond the standard pool and tennis courts. The proposed recreational facilities, open space amenities and pedestrian walkway linkages will all ensure the resident is encouraged to walk to the facilities without difficulty.

ENGINEERING COMMENTS

No Comment (ENG)

ZONING CONDITIONS

1. The property owner shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. (BLDG PERMIT:BLDG)

2. Prior to DRC certification, the applicant shall ensure the BOFA conditions are shown on the site plan. (DRC-Zoning)

3. The final certified site plan for Valencia Grand Isles PUD, Exhibit 20, presented to the Board of Adjustment, shall be shown on the final platted and designated as "open space amenities." The distance from the units to the recreation parcels delineate on the Site Plan (Exhibit 20), presented to the Board of Adjustment shall not be modified to increase the variance distance. (ONGOING)

4. The 5 designated "open space" recreational amenities shown on the Site Plan, Exhibit 20, presented to the Board of Adjustment shall be shown on the final platted and designed as "open space" dedicated to the home ownership. A note shall be placed on the dedication sheet of the final plat indicating these tracts are required to comply with the ULDC distance requirement between residential units and recreation amenities and consistent with the BA99-70 variance approval. (PLAT-ZONING)

5. The designated "open space" recreational amenities shall include, but not limited to the following uses:

- a) Bench
- b) Gazebo
- c) exercise station-railroad ties
- d) Arbor
- e) Shade rest area

(ONGOING)

6. The first of the five "neighborhood amenities" shall be installed prior to the receipt of the final certificate of Occupancy for the 150th unit. The second and third of the five "neighborhood amenities" shall be installed prior to the receipt of the final Certificate of Occupancy for the 400th unit. The fourth and fifth of the five "neighborhood amenities" shall be installed prior to the receipt of the final Certificate of Occupancy for the 600th unit. (Subdivision #0577-000-MONITORING-BLDG PERMIT-ZONING/BA)

Next item on concept is B of A 99-00075, Chris Macri, agent for Harold and Elizabeth Macri, to allow a proposed single-family dwelling to encroach into the required rear setback.

Applicant present?

MR. MACRI: Yes.

CHAIR PERSON KONYK: Your name for the record?

MR. MACRI: Chris Macri.

CHAIR PERSON KONYK: The staff has recommended six conditions.

Do you understand and agree with those conditions?

MR. MACRI: I spoke to Mr. MacGillis about item number 5. We're going to amend that. Apparently, there's going to be a postponement. There is going to be some time to make some changes.

MR. MacGILLIS: We did receive a request from Mr. Fletcher, who's the property owner across 80th Road. He wanted to be here for the hearing this morning. He's made several attempts to -- well, actually, he did come in here to look over the file. He's very concerned with the variance and the impact it's going to have on his property.

There's also another neighbor to the -- adjacent to this property who's also -- Mr. Grant -- who's also very concerned with the variance and would like to be here. But they faxed me this letter this morning. Please postpone this meeting for another date due to the hurricane.

Apparently they were ready to come here and used up one of their personal days; but, because of the hurricane, they couldn't get off from work. So they request the Board postpone this item. I told the property owner all I could do was read it into the record. I've spoken to the applicant and said staff would have no problem with postponement. So I think he's ready, if it comes down.

I tried to explain it to the property owner on the phone. He lives across the street, across 80th. He's concerned because of the reduced setback that it's going to have on the street appearance on his property.

MR. MACRI: Which is very peculiar to me because --

CHAIR PERSON KONYK: It's a rear setback?

MR. MACRI: I have a forty-five foot -- I have double frontage here. And this man's about fifty feet off of the street right now.

MR. MacGILLIS: What you have is, all the homes located on the north side of 80th Street have a reduced setback because they're nonconforming lots. And their lots are not as deep as this lot. This lot has a -- it's going to be his rear setback of a hundred feet. But, on the other side, their front setback. And their front setback is only fifty feet. So the -- this neighbor and the other neighbor are concerned it's going to set a precedent out here for -- because there's several lots along that 80th Street that do not have houses built yet.

And, if this is one's allowed, he's concerned that it will set a precedent down the road for the other homes located on the south side of 80th will be allowed to have fifty-foot setback.

Staff went through the -- all the analysis, and we don't have a problem because of the uniqueness of where his lot is located. But I had not had a chance to speak to the neighbor. He made several attempts to come in here. I was busy last week and couldn't speak to him. Therefore, I don't have a problem with postponement, if it's -- if it would help address the neighbors' concerns.

He was ready to come here this morning; but, unfortunately, he couldn't.

MR. MACRI: The problem is this permit is already seven months old. And I've been working on this variance for a while. I'm not a laymen. I'm a general contractor. I'm state licensed. I've been through these Board meetings before. And I can understand that there's going to be concern in the neighborhood. But, number one, none of those other lots are on the canal like I am. I have a separation problem with the Health Department. I've got Cypress trees that have to be bull dozed down in order to put this where the county wants it.

I'm talking about a thirty-foot change on something I think is really -- I mean, a hundred-foot rear setback in The Acreage is a big setback. I'm asking that we reduce it to seventy feet. This man's going to be fifty feet, and I'm going to be seventy feet.

And, you know, I don't really -- it's up to you guys. I mean, if you want to continue it, perpetuate it, it's fine. But --

MR. BASEHART: Well, actually, I think it's up to you. I mean, this is an advertised public hearing. Everyone's been given notice of the hearing. If you want to cooperate with your neighbors and request a thirty-day postponement, you know, then we can consider that. If you feel that it's necessary to move forward with the hearing and get a decision today, you don't need to postpone it.

MR. MACRI: Obviously, I'm going to work out. I don't think that either individual really understands what I'm going to have to do in order to achieve this. I've got buffers that I've got to protect in order to buffer the one individual's property. The other individual is adjacent to me. He's under construction. I spoke to Norville Grant last week, and he told me he didn't have any problem with it.

So, apparently, Mr. Fletcher has gotten in touch with Mr. Grant because I know that John across the street, I mean, he has a problem with everything that goes on.

Unfortunately, he's one of those people.

If you're telling me that I can proceed with it, but it's going to jeopardize the ruling having him out there in limbo, then, you know, I'll work it out with John. I'm going to have to work it out with him anyway.

MR. BASEHART: Well, you know, I'll defer to the county attorney; but I believe our responsibility is to make a decision based on the competent substantial evidence that's given to us at the hearing.

MR. MACRI: That's basically what staff has recommended then?

MR. BASEHART: Well, that's part of it. Your testimony is part of it. And the testimony of anyone else that might be here to either support or object. So I wouldn't say that your refusal to postpone this item in itself would jeopardize, you know, the chances of an approval. It depends on --

CHAIR PERSON KONYK: He's already got staff recommending approval with six conditions.

MR. MACRI: I've gone through a lot of stuff with staff here. I mean, nothing's out of line. The only thing is this one item number 5. I intend to have a building in between the detached single-family and the garage in the future. And it just doesn't address that building that's going to go in between these two. And that's the only amendment that I can see --

CHAIR PERSON KONYK: Did you want to ask staff if they could modify condition number 5?

MR. MACRI: I already spoke to Jon. He didn't see a problem with it.

CHAIR PERSON KONYK: Do you want to modify it then?

MR. MacGILLIS: Yes. Condition number 5 will read, the variance is limited to a reduction in the rear setback for a proposed single-family dwelling, a detached garage and a future addition to the single-family dwelling as shown on Exhibit 18, so and on, so forth. That's all.

MR. MACRI: It shows up on the site plan.

CHAIR PERSON KONYK: Other than what you mentioned, did you have any other letters on this item?

MR. MacGILLIS: Yes.

CHAIR PERSON KONYK: Is there anyone present now from the public to speak on this item?

No.

MR. MacGILLIS: We had one for approval from 13201 Southwest 2nd in Miami, Florida. He must own the property. Jose Manuel Negrio. It just says, I recommend approval.

Of course, the letter from Mr. Fletcher. Apparently, Mr. Fletcher said the neighbor, Mr. Grant, sent one in to.

I did not see a letter in the file from Mr. Grant, who's the --

CHAIR PERSON KONYK: Have you spoken to Mr. Grant?

MR. MacGILLIS: Mr. Grant? I did not.

CHAIR PERSON KONYK: No. So the only letter we have is from Mr. Fletcher?

MR. MacGILLIS: Mr. Fletcher, who's the property owner across 80th Street who strongly recommends this thing be postponed or denied.

MR. RUBIN: When we put something on the consent agenda, is one of the conditions that we have no letters in opposition, or they must be here to oppose?

MS. BEEBE: The Board has the right to pull it off

the consent agenda because of some of the issues raised in the letters.

MR. RUBIN: I was just asking, our rule allows us to put things on the consent agenda, assuming there are no objections. I haven't read the rule. I'm just asking. When we receive a letter in opposition, I'm just asking --

CHAIR PERSON KONYK: It has to pertain, first of all.

MR. MacGILLIS: Or sometimes we have the agenda worked up before, actually, somebody calls us and the agenda has gone out or gone to press, so we just tell the applicant we will pull it at the hearing. There's nothing we can do. It's already gone to press, which is usually going to be the week perfect the meeting.

MR. BASEHART: But if the objector is not here and we, you know, consider their letter and we don't believe their letter is relevant to the issue, then we don't necessarily have to pull the item; is that correct?

MR. MacGILLIS: Right. Because he didn't put a lot of stuff in the letter. He was trying to talk to me this morning. I said, unfortunately, I had to go to the meeting. He had issues which he didn't put in here because we were rushed for time. And, as we said, unfortunately, he tried to call yesterday; and our department was closed, so he said.

CHAIR PERSON KONYK: This was advertised thirty days in advance?

MR. MacGILLIS: He has made every attempt to come here. He has come in here. He met with staff. He did not meet with me because I busy last week.

CHAIR PERSON KONYK: What are his objections?

MR. MacGILLIS: Unfortunately, I didn't speak to him.

CHAIR PERSON KONYK: Did anybody here speak to him?

MR. MacGILLIS: No. He spoke to several zoning staff members, but they're not in here. He spoke to Ron Wong, the on-call planner. He spoke to Mary, I believe, to get the file to look at. He requested a appointment with me.

It's here. I didn't have enough time last week to call him back, which I usually try to do.

I know he's going to be calling back if this goes forward. I would prefer it be postponed, but it's up to the Board.

MS. BEEBE: The Board can also continue on its own motion.

MR. RUBIN: For the record, I'll move that the item be postponed until the next regularly-scheduled meeting because we do have a member of the public who wishes to appear and, apparently, has an objection. And he's claiming that it's the hurricane that is preventing him from being here, which I consider to be an unusual circumstance.

I know we've continuances on the applicants in the past. So for the record, I would just move that it be postponed for next regularly-scheduled meeting.

CHAIR PERSON KONYK: We have a motion by Mr. Rubin. Do we have a second?

MR. JACOBS: I'll second that motion.

CHAIR PERSON KONYK: Second by Mr. Jacobs.

MR. WICHINSKY: I have a comment.

I'm going to support the motion as well. In the past, I think we've had our own balancing test on whether or not an item should be postponed or not. And considering the fact that the applicant not only sent in

some type of letter but made an effort -- came in and reviewed the file. He's an adjoining land owner, not somebody who lives a half a mile away. I just think that gravitates the level of possible interest here that, in fairness to all parties, we should put it off for thirty days.

CHAIR PERSON KONYK: Is it an adjoining land owner?

MR. MacGILLIS: It's directly across 80th.

But Mr. Grant is the adjacent property owner.

CHAIR PERSON KONYK: But he's not complaining? He's not voiced an opinion?

MR. MacGILLIS: Both of them. I mean, his name was on this letter from Mr. Fletcher?

MR. MACRI: Did he sign that letter, Jon?

MR. MacGILLIS: No.

CHAIR PERSON KONYK: No. Mr. Fletcher mentioned him.

MR. MacGILLIS: Right.

CHAIR PERSON KONYK: That doesn't count.

MR. MacGILLIS: But, apparently, staff has told me that Mr. Fletcher (sic) has called as well.

Apparently, he tried to apply for a variance and was discouraged several years ago. But, once again, I have not spoken directly to either one of these property owners.

MR. MACRI: But he's not on the canal lot. I have a unique conditioner here. I've got easements on three sides of this property. But to be perfectly frank, I agree that we should, you know, postpone it because I'll have to work it out with -- I know that Norville is not a problem, Mr. Grant. I already spoke with him. But I haven't spoken to John. And it's going to have to get worked out with John. He just needs to understand what's going on. I don't think it's his business to tell anybody, you know, what -- his house is going twenty feet closer than what I'm trying to do, to be perfectly frank.

But, in the interest of good neighbors, I agree, we should postpone it.

CHAIR PERSON KONYK: Okay. So we have a motion to postpone by Mr. Rubin. Second by Mr. Jacobs.

All those in favor?

(Panel indicates aye.)

CHAIR PERSON KONYK: Opposed?

(No response.)

CHAIR PERSON KONYK: Motion carries unanimously.

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.

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

YES. There are unique circumstances surrounding this subdivision, lot and structure that warrant special consideration when applying the literal intent of the rear setback. This lot is located in the Palm Beach Acreage Subdivision. The lot is located east of Seminole Pratt

Whitney and South of Northlake Boulevard. The lots in this rural residential subdivision range in size from 1.5 acres to 5 acres. The applicable setbacks for this subdivision vary based on the lot size and property depth/width. This legal non-conforming 2.29 acre lot has 380 feet of depth and 266 feet of width. The lot has double frontage onto Temple Blvd., and 80th Street. There is 60 foot wide by 380 foot deep road and drainage easement that runs parallel to the east property line that decreases the buildable lot by .52 acres. Also, the lot, like many other lots in the Acreage, supports significant native stands of mature slash pines and individual cypress trees. All these facts effect the location of the proposed dwelling, garage, well, septic and other site amenities. In order to accommodate these improvements the applicant must address each of the county regulations in terms of setback location from one another.

Therefore, the applicant is requesting the board of Adjustment to approve a reduced rear setback for the proposed single-family dwelling and detached garage at 70 feet from the base building line along 80th Street.

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

NO. This is not a self created hardship. The applicant has a 2.29 acre legal non-conforming AR lot in the Acreage. The applicant is proposing to preserve the existing native vegetation on the lot to enhance the property value and improve the overall enjoyment of the property. Also, other property owners along Temple Blvd., and 80th Street have constructed homes that have respected the existing native vegetation by preserving it and incorporating it into the site design. What is unique about this lot and other lots along this block is the property owner chose where to have legal access onto either Temple Blvd., or 80th Street. In the AR zoning district the front and rear setbacks are both one hundred feet for these lots since the lot depth complies with the required 199 feet of depth for an AR lot. The majority of the property owners that have constructed on their lots have chosen Temple Blvd. as their front setback and 80th as their rear yard. However, the applicant has chosen 80th Street as his legal access and will orientate the front of the house to Temple Blvd. The applicant is proposing a 164 foot front setback and a 70 foot rear setback. Under typical site conditions, staff would recommend the house be shifted 30 feet forward in order to accommodate the rear setback. However, as discussed under #1, this lot has unique amenities and constraints that require careful placement of the dwelling, septic and well to ensure that native vegetation is preserved.

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

NO. The granting of this variance will not grant any special privilege upon this applicant. The lot has unique features that separate it out from other lots in the Acreage that have been given reduced setbacks under

similar circumstances. In the AR zoning district there are three ways staff can apply setbacks to a lot:

- a) The lot is conforming in terms of size (acreage) and depth/width the 100 foot front and rear setback is applied.
- b) The lot is non-conforming in terms of depth/width then percentage setbacks are applied.
- c) When either a or b above cannot be met, staff can determine through unique circumstance (shape of lot, existing structures on site) that prohibit the 100' or % setbacks from being applied to structures, then a 25 foot setback can be applied.

In the Acreage and other rural subdivisions in Palm Beach County, property owners have been given special consideration when applying setbacks on their non-conforming lot. In this particular situation, the lot is 2.25 acres and has 380 feet of depth. Therefore, even though this is a legal non-conforming lot since the property depth meeting the minimum 300 feet the % or 25 foot setbacks cannot be applied. Staff has applied the required 100 foot front and rear setbacks to the proposed structures. The applicant has a valid building permit with these setbacks shown on it. However, the applicant is requesting that the plans be amended to shift the house closer to 80th Street in order to maintain the maximum amount of native slash and cypress trees on the lot. This will allow the portion of the lot between the south side of the dwelling and Temple Blvd., to remain open.

Since this lot is located on the south side of 80th Street that dead-ends at this lot due to the canal. All the lots located on the north side of 80th Street, due to their depth of less than 300 feet had percentage setbacks applied to the front and rear resulting in a 50 foot front setback. In addition, there is existing mature native slash pines located along this property's north property line that will be preserved. The vegetation will mitigate any negative impacts associated with this setback encroachment.

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

YES. The literal enforcement of the AR setbacks on this lot will work an undue hardship on the applicant. The applicant is attempting to construct a single-family dwelling and accessory garage while preserving the natural beauty of the lot that is created by the native stands of slash pines and cypress trees. The slash pine trees' root system is very sensitive to any type of construction or impact to the root system during construction. The cypress trees are very sensitive to changes in grades that might reduce the standing water. Therefore, the applicant is being sensitive to where the house is located in order to impact the least amount of trees. The building pad is currently constructed and the trees remaining at this point will be preserved. If the variance is denied, the house pad would have to be shifted further to the south

(towards Temple Blvd.) which would impact the existing vegetation.

Therefore, the granting of this rear setback variance will meet the general intent of the code. The setbacks along 80th Street vary from the north to south side of the street. The north side of the street is these dwellings' front yard with a setback of 50 feet. While the south side of 80th supports the rear of the house and support a 100 foot setback. This lot 818, which is the last lot on this dead-end street (dead-ends at canal) will have a rear setback consistent yet greater than the front setback of the homes on the north side of 80th Street.

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

YES. The granting of this rear setback of 70 feet along 80th Street will be consistent with the code and be the minimum necessary to accommodate the proposed residence and detached garage, while preserving the majority of the native upland and wetland vegetation. The applicant has a building permit approved for the rear setback at 100 feet which he is requesting to change to 70 feet.

Therefore, granting this rear setback variance is a reasonable request based on the constraints of the site and the applicant's proposal to preserve existing native vegetation.

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

YES. The general intent of the Comp Plan in this area is to encourage and preserve the rural residential subdivision. The Acreage subdivision supports lots that vary in size from 1.5 acres to 5 acres. These lots typically support native vegetation such as slash pines and cypress trees that enhance the overall quality of the

community. Many residents that decided to buy in this rural community do so because of the larger lots, native vegetation and rural amenities (horse trails, ponds, etc.). The ULDC AR setbacks are established to ensure the openness of the lot is maintained in both the front and rear yards. The ULDC established a 100 foot front and rear setbacks, which helps maintain a feeling of openness when one drives down the street. It also allows for preservation of vegetation in this 100 foot setback and area to accommodate horses and other domestic animals.

In this particular situation, the applicant has every intent to maintain both the intent of the Comp Plan and ULDC. The applicant is proposing to construct a single family dwelling and accessory garage. The request to deviate from the required rear setback of 100 feet to 70 feet will allow additional trees on the site to be safe and incorporated into the site design. The preservation of the slash pines and cypress trees will not only enhance the proposed structures but maintain the ambiance of this rural subdivision.

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

NO. The granting of this variance will not be injurious to this area. The proposed rear setback would only have an impact on lot 817, which is located on the north side of 80th Street. This lot currently supports a single-family residence that has a front setback of 50 feet. Therefore, the proposed 70 foot rear setback on the structures on this lot will be consistent with existing setbacks. The native vegetation located between the dwelling and detached garage and 80th Street will mitigate the setback encroachment.

ENGINEERING COMMENTS

No Comment. (ENG)

ZONING CONDITIONS

1. By October 16, 1999, the applicant shall submit a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board of Adjustment at the hearing. The applicant shall also revise the building permit B99006912 & 13 to reflect the single family dwelling and detached garage at the 70 foot rear setback from the base building line for 80th Street. The native slash pines and cypress trees shown on the Site Plan in the BA99-75 BA file in Zoning shall also be shown on the revised building permit Site Plan. (DATE:MONITORING-BLDG PERMIT)

2. Prior to any further site preparation or construction, all the required slash pines and cypress trees to be preserved as shown on the approved Site Plan, Exhibit 18, in the BA File 99-75, shall be properly barricaded with wood to insure no construction vehicles or supplies are placed within 15 feet of the base of the tree(s). (BLDG INSPECTIONS-ZONING-BA)

3. By November 16, 1999, the applicant shall provide the Zoning Division with a copy of the recorded Restrictive Covenant that is recorded on this property to ensure the existing native vegetation shown on Exhibit 18, in the BA99-75 file in the Zoning Division, is preserved in perpetuity. (DATE:MONITORING-ZONING-BA)

4. The existing native slash pines located adjacent to 80th Street shall be preserved and maintained to buffer the rear setback encroachment along this street. Removal of these trees shall be permitted. (ONGOING)

5. This variance is limited to a reduction in the rear setback for a proposed single family dwelling a detached garage as shown on Exhibit 18 in BA99-75 variance file in the Zoning Division. The rear setback is measured from the base building line off 80th Street. (ONGOING)

6. The applicant shall provide proof to the Zoning Division that a tie down building permit has been issued for the existing mobile home on the site. And a copy of a valid Special Permit for a mobile home while constructing a single family residence.

Failure to provide proof by October 16, 1999, shall require the mobile home to be removed immediately from the site or obtain the necessary permits by October 16, 1999. (DATE-MONITORING-ZONING)

7. By October 21, 1999, or prior to any construction or further site preparation, the applicant shall contact the Landscape Section to arrange a site inspection to verify all native vegetation to be preserved and incorporated into the site design. (DATE-MONITORING-LAND INSP)

ZONING COMMENT

At time of completing the final report, the applicant did not provide staff with the requested "tree survey". The survey will show tree location, type and size in order to ensure trees are saved to mitigate the setback encroachment. Staff is recommending several conditions related to preservation.
(ZONING)

CHAIR PERSON KONYK: Next item is Board of Adjustment Time Extension 99-00090. Applicant is requesting modification to BA 99-064, condition number 3 approved at the August 19, 1999, hearing.

MR. MacGILLIS: I don't see the agent here. He did come in and meet with us last week. He did get a copy of the staff report. This was put in -- the staff worked this up at the last minute to accommodate the property owner who was -- apparently, once they brought in the first building permit for this subdivision where the Board approved a front setback for all thirty-four lots, they found out that several of these lots could not be -- accommodate the house that was proposed.

Staff has no problem with the amended condition as it reads. The applicant accepted this condition and was the one who presented it to staff, so...

CHAIR PERSON KONYK: So that will remain on the consent if there's no opposition from the public and no Board member objects.

(No response.)

CHAIR PERSON KONYK: Okay. The items on consent are B of A 99-0009, Board of Adjustment time extension 99-00067, B of A 99-00068, B of A 99-00070, B of A 99-00075 is postponed. Sorry. That's not on the consent. And Board of Adjustment time extension 99-00090.

Is anyone prepared to make a motion to accept the

consent?

MR. BASEHART: Madam Chair, I make a motion that the consent agenda as just read be approved.

CHAIR PERSON KONYK: Motion by Mr. Basehart.

MR. JACOBS: Second.

CHAIR PERSON KONYK: Second by Mr. Jacobs.

All those in favor?

(Panel indicates aye.)

CHAIR PERSON KONYK: Motion carries unanimously.

You're all free to leave.

Next item that we have to review is the hearing attendance chart. Mr. Basehart was away on business, and Mr. Jacobs was away on business last month.

We need a motion to approve these as excused absences.

MR. CARDONE: So moved.

CHAIR PERSON KONYK: Motion by Ms. Cardone. Second by?

MR. WICHINSKY: Second.

CHAIR PERSON KONYK: Mr. Wichinsky.

All those in favor?

(Panel indicates aye.)

CHAIR PERSON KONYK: Motion carries unanimously.

Next item is an adjournment, motion to adjourn.

MS. CARDONE: Madam Chair, may I ask a question?

CHAIR PERSON KONYK: Sure.

MS. CARDONE: Jon, I just have a question for you. As I was going through this earlier and looking at the Aberdeen Golf Club sign, when they extended the road, when they widened the road and added the guard rail, does that impact any other signs? Will we see this coming, you know, individually, you know, sign after sign after sign because nobody can see them?

CHAIR PERSON KONYK: That's the only place where there's a guard rail.

MR. MacGILLIS: Right. So --

CHAIR PERSON KONYK: That's the only place where the widening required a guard rail.

MS. CARDONE: And just more question.

When you have -- the conditions that you gave them to change the sign, does the landscape get raised too at all? Or do we just -- I mean, the reason I was asking it's looks very attractive when you see the trees. And I thought with the sign going way up, you just see the tree tops, and they'll look like dwarf trees.

MR. MacGILLIS: That -- I mean, I assume they'll -- I mean, it's well maintained now, the golf course -- to modify the landscaping -- it was a disability, but it wasn't a condition of approval.

MS. CARDONE: Okay. Thank you.

CHAIR PERSON KONYK: Those are pretty big trees back there; so, I mean, I don't think they're really going to be --

MS. CAI: That's correct. There are mature trees, such as a Palm Tree --

CHAIR PERSON KONYK: Yeah. They're Canary Date Palms.

MS. CAI: Correct.

CHAIR PERSON KONYK: Very tall trees.

Okay. Motion to adjourn?

MR. BASEHART: So moved.

CHAIR PERSON KONYK: Motion by Mr. Basehart.

Second?

MR. JACOBS: Second.

CHAIR PERSON KONYK: By Mr. Jacobs.

All those in favor?

(Panel indicates aye.)

CHAIR PERSON KONYK: Meeting is adjourned.

(Thereupon, the proceedings were concluded at 9:33

o'clock a.m.)

C E R T I F I C A T E

THE STATE OF FLORIDA)
COUNTY OF PALM BEACH)

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

DO HEREBY CERTIFY that the foregoing Proceedings were
taken before me at the time and place stated herein; and that
this transcript of said hearing, numbered 1 through 31
inclusive, constitutes a true and correct transcript of said
proceedings.

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

IN WITNESS WHEREOF, I have hereunto affixed my hand
and official seal this 6th day of October, 1999.

RACHELE L. CIBULA, NOTARY PUBLIC