

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

Thursday, March 16, 2006  
9:05 a.m. - 9:45 a.m.  
100 Australian Avenue  
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer  
Notary Public

**A T T E N D E E S**

Ms. Chelle Konyk, Chairperson

Mr. Robert E. Basehart, Vice Chairman

Ms. Nancy Cardone

Mr. William Sadoff

Mr. Joseph Jacobs

Mr. Raymond Puzzitiello

Ms. Dinah S. Stephenson, Esquire

Mr. Stanley Misroch, Alternate

Mr. Donald Mathis, Alternate

Annie Helfant, Assistant County Attorney

Alan Seaman, Senior Site Planner

C. Larry Roberts, P.E., Senior Registered Engineer

Oscar Gamez, Site Planner I

Timothy Sanford, Site Planner I

David Flinchum, Principal Planner

Annette Stabilito, Secretary

I N D E X

<u>Petition</u>		<u>Page</u>
1	BA2005-01448	6
2	BA2006-00200	8
3	BA2006-00201	9
4	BA2006-00202	10
5	BA2006-00203	11
6	BA2006-00205	11
7	BA2006-00208	12, 22
8	BA2006-00209	12
9	BA2006-00210	13
10	BA2006-00213	14
11	BA2006-00214	15
12	BA2006-00221	7
13	BA2006-00223	16
14	BA2006-00225	17, 26
15	BATE2006-00280	20
16	SD-129	8
17	SD-130	20
CERTIFICATE OF REPORTER:		29

P R O C E E D I N G S

\* \* \* \* \*

CHAIRPERSON KONYK: I'd like to call to order the March 16th, 2006, Palm Beach County Board of Adjustment meeting, starting with the roll call and declaration of quorum.

MS. STABILITO: Mr. William Sadoff.

MR. SADOFF: Here.

MS. STABILITO: Mr. Raymond Puzzitiello.

MR. PUZZITIELLO: Here.

MS. STABILITO: Dinah Stephenson.

MS. STEPHENSON: Here.

MS. STABILITO: Ms. Chelle Konyk.

CHAIRPERSON KONYK: Here.

MS. STABILITO: Mr. Robert Basehart.

VICE-CHAIRMAN BASEHART: Here.

MS. STABILITO: Ms. Nancy Cardone.

MS. CARDONE: Here.

MS. STABILITO: Mr. Joseph Jacobs.

MR. JACOBS: Here.

MS. STABILITO: Mr. Stanley Misroch.

MR. MISROCH: Here.

MS. STABILITO: Mr. Donald Mathis.

MR. MATHIS: Here.

CHAIRPERSON KONYK: I have before me proof of publication in the Palm Beach Post on February 26<sup>th</sup>.

Sorry. I skipped the opening prayer and pledge. We'll start with the opening prayer. Mr. Basehart will do it for us this time.

MR. BASEHART: May we approach today's business as tasks of faith to do our best within our power to provide positive leadership on behalf of our community and those who live and work here, and that our decisions meet the standards of divine compassion for all. Amen.

CHAIRPERSON KONYK: Please stand for the Pledge.

(Whereupon, the Pledge of Allegiance was recited.)

CHAIRPERSON KONYK: The next item on the agenda is remarks of the Chairman.

For those of you who are not familiar with how this Board conducts its business, the meeting 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. The applicant agrees with any conditions the staff may have suggested. If there's no opposition from the public and no Board member feels the item warrants a full hearing. If your item remains on consent after all the consent items are heard, we'll vote on them all at once and then you're free to leave.

If your item is pulled from consent, it will be reordered to the first item on the regular agenda, and if it's pulled it would be because an item is either -- a Board member does not agree that the item should remain on consent or there's opposition from the public or the applicant does not agree with the conditions that the staff has

recommended.

After we move to the regular agenda, the items will be introduced by the staff. We'll hear from the applicant. At that point, we'll hear from the staff. They'll do their presentation. We'll hear from the public. After the public portion of the hearing is closed, the Board members can ask questions and vote on that item.

Everyone received a copy of the Minutes of the last meeting? Does anybody have any corrections or additions?

(No response.)

CHAIRPERSON KONYK: Seeing none, could I have a motion for approval?

VICE-CHAIRMAN BASEHART: So moved.

CHAIRPERSON KONYK: Motion by Mr. Basehart.

MR. PUZZITIELLO: Second.

CHAIRPERSON KONYK: Second by Mr. Puzzitiello.

All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response)

CHAIRPERSON KONYK: Motion carries unanimously.

Next item on the agenda is remarks of the Zoning Director.

MR. SEAMAN: A couple of things. I'd like to welcome Ms. Dinah Stephenson, who's a new member of the Board here with us today. We appreciate her stepping up and helping us out.

The other issue is through our reorganization in the Zoning Department, Bob Buscemi has now been moved to a different section, and the principal over this section is David Flinchum who is out there. So that's been another change to the reorganization. And that's it.

CHAIRPERSON KONYK: Any changes in the Agenda?

MR. SEAMAN: No.

CHAIRPERSON KONYK: Any member of the public that's going to speak on any item, if you could all stand now and get sworn in. It would be helpful, that way we'll have it done all at once. If you're going to speak on any item for any reason or you think you might have to speak. I would stand and get sworn in so we don't have to -- there you go.

Okay. Is he speaking? If you're not sure, just get sworn in. It won't hurt.

MR. SEAMAN: It doesn't cost anything.

CHAIRPERSON KONYK: You won't use up your swearing in, it's unlimited.

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

CHAIRPERSON KONYK: The first item on the agenda is a consent item. It's BOFA2005-01448, Land Design South.

MR. SEAMAN: And if I could just make a comment here, there are three items that relate to the same project.

CHAIRPERSON KONYK: Okay, good.

MR. SEAMAN: So you might want to take those three and it's --

CHAIRPERSON KONYK: Are they the first three?

MR. SEAMAN: No. They're --

CHAIRPERSON KONYK: Okay. You want to tell me which ones they are?

MR. SEAMAN: They are 2006-221 and SD-129.

CHAIRPERSON KONYK: Are they in together?

MR. SEAMAN: All three relate to the same project and they're all on consent.

CHAIRPERSON KONYK: Let's do them all. Okay. Which one? Give me the three numbers.

MR. SEAMAN: 1448, 2006-221, SD-129.

VICE-CHAIRMAN BASEHART: 2006?

CHAIRPERSON KONYK: Okay. SD-129. So we'll hear all three of these right now. Hold on one second. SD-129 and what was the middle one?

MR. SEAMAN: 2006-221.

CHAIRPERSON KONYK: 221, okay, great. Got it.

The first item on the Consent is BOFA2005-1448. Applicant present?

Would you step forward and give us your name for the record? I don't recognize you. I haven't seen you in a long time. You're getting a little gray there.

MR. BENTZ: Yeah, I know, a little bit. Thanks very much.

For the record, Bob Bentz with Land Design South and we do agree with all the conditions of approval.

CHAIRPERSON KONYK: Okay. Is there any member of the public to speak against this item?

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: We have twelve letters and eight of them are in approval, four are disapproval, but they don't give any reason.

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

MS. CARDONE: I don't want to pull it. I just have one question. I notice that there are some landowners who have to come in later, Alan, because not all of these units in this development are under the ownership of Tivoli Lakes. So will all those individuals have to come in separately, we'll be seeing those as individual variances coming forward as --

MR. SEAMAN: No. My understanding is that we're finished. We have consent forms from all those owners that need this variance and they are in our file, and this is the end of it.

MS. CARDONE: Good, great.

MR. SEAMAN: Well, never say it's the end,

but --

CHAIRPERSON KONYK: Exactly. That's like saying it's going to be a short meeting, right?

Okay. No Board member feels this item needs to be pulled, so this item will remain on consent.

#### BOARD OF ADJUSTMENT CONDITIONS

1. By **3/16/2008**, 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 applications for all units at the time this variance was approved. (BUILDING: DATE: ZONING)
2. Prior to the Development Order expiration (**3/16/2009**), the project shall have received and passed the first building inspection for all unbuilt units at the time this variance was approved. (BUILDING: DATE: ZONING)
3. By **9/16/2006**, the approved site plan for Tivoli Lakes PUD (P-02-15), shall be amended to reflect the variance approval pursuant BA-2005-1448. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: The other two items are connected to this one; correct?

MR. SEAMAN: Correct.

CHAIRPERSON KONYK: So let me just go ahead and do those.

BOFA2006-00221, Land Design South, agent for owners lots, et cetera. Staff has recommended one condition. You understand and agree with that?

MR. BENTZ: We do, yes.

CHAIRPERSON KONYK: Any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any Board member feel this warrants a full hearing?

(No response)

CHAIRPERSON KONYK: Alan, are there any letters?

MR. SEAMAN: There are nine letters; six approve, one disapproves and two just need clarification.

CHAIRPERSON KONYK: But the disapproval is not substantially related to the variance?

MR. SEAMAN: No, there was nothing. They

just said disapprove.

CHAIRPERSON KONYK: Okay. Seeing no opposition, this item will remain on consent.

#### BOARD OF ADJUSTMENT CONDITIONS

1. By **9/16/2006**, the approved Site Plan for Tivoli Lakes PUD (P-02-15) shall be amended through the DRO section of the Zoning Division, to reflect the variance approval pursuant BA-2006-221. DRO: DATE: ZONING)

CHAIRPERSON KONYK: The next item is SD-129, Home Devco/Tivoli Lakes. Again, no conditions. Staff recommends approval. Any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. ROBERTS: I had three letters, several phone calls, mostly didn't understand exactly what the situation was.

CHAIRPERSON KONYK: Okay. So after clarification it wasn't related to the variance? Okay. Thank you.

This item will also remain on consent. Is there another one?

MR. SEAMAN: You got all three of them.

CHAIRPERSON KONYK: Okay. That's it. You can have a seat. I know you're rusty.

CHAIRPERSON KONYK: BOFA2006-00200, Susi Guthier, agent for Sterling Communities, to allow an existing drainage easement to overlap the landscape buffer. Is the applicant present?

MS. GUTHIER: Yes.

CHAIRPERSON KONYK: Would you give us your name for the record?

MS. GUTHIER: Susi Guthier.

CHAIRPERSON KONYK: Okay. Staff has recommended one condition. Do you understand and



agree with that condition?

MS. GUTHIER: Yes, we do.

CHAIRPERSON KONYK: Any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: Two.

CHAIRPERSON KONYK: Wait. Are you raising your hand for a reason?

UNIDENTIFIED SPEAKER: Is this for the Yamato and 441? I may have wrote the wrong agenda one on the petition. Is this for the Hamptons?

MS. GUTHIER: No, this is for Talavera PUD, Palomino and 441.

UNIDENTIFIED SPEAKER: Sorry.

CHAIRPERSON KONYK: Okay. Any letters?

MR. SEAMAN: Two and they're just for clarification.

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

(No response)

CHAIRPERSON KONYK: Seeing none, this item will remain on consent. You may have a seat.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. Prior to DRO approval, the applicant shall have the approved variances, pursuant **BA-2006-200**, labeled on the Approved Site Plan. (DRO: EVENT: ZONING)

CHAIRPERSON KONYK: BOFA2006-00201, Michael and Donna Mark, to allow a proposed pool to encroach into the required side street setback. Your name for the record?

MR. MARK: Michael Mark.

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

MR. MARK: Yes.

CHAIRPERSON KONYK: Any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are none.

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

(No response)

CHAIRPERSON KONYK: Seeing none, your item will remain on consent. You may have a seat.

**BOARD OF ADJUSTMENT CONDITIONS**

1. By **3/16/2007**, 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 of Adjustment, simultaneously with the building permit application. (BUILDING: DATE: ZONING)
2. Prior to the Development Order expiration (**3/16/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BOFA2006-00202, Patrick and Angela Buckley, to allow an existing single-family dwelling to encroach into the required side interior setback.

Your name for the record?

MR. BUCKLEY: Patrick Buckley.

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

MR. BUCKLEY: Yes, I do.

CHAIRPERSON KONYK: Any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are none.

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

(No response)

CHAIRPERSON KONYK: Seeing none, your item will remain on consent. You may have a seat.

**BOARD OF ADJUSTMENT CONDITIONS**

1. By **5/16/2006**, 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 of Adjustment, simultaneously with the building permit application. (BUILDING: DATE: ZONING)
2. Prior to the Development Order expiration (**3/16/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BOFA2006-00203, Jeff Lass  
-- I'm not sure how to say the last name.

MR. LASNIER: Jeff Lasnier.

CHAIRPERSON KONYK: Lasnier. To allow an existing single-family dwelling to encroach into the required side interior setback.

Staff has recommended one condition. Do you agree with that?

MS. LASNIER: No problem.

CHAIRPERSON KONYK: Any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: None.

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

(No response)

CHAIRPERSON KONYK: Seeing none, this item will remain on consent. You may have a seat.

MR. LASNIER: Thank you.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. The applicant must have the existing metal shed removed from the property by **3/16/2007**.

CHAIRPERSON KONYK: BOFA2006-00205, Joseph and Frances Muni, to allow a proposed room addition to encroach into the required rear setback.

Is the applicant present? Name for the record?

MR. MUNI: Frances and Joseph Muni.

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

MR. MUNI: Yes, we do.

CHAIRPERSON KONYK: Any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are five and they are in favor.

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

(No response)

CHAIRPERSON KONYK: Seeing none, you may have a seat.

MR. MUNI: Thank you.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **3/16/2007**, the Approved Site Plan for Cimarron PUD (**P-75-068**) shall be amended through the DRO section of the Zoning Division to reflect the variance approval pursuant **BA-2006-205**. (DRO: DATE: ZONING)
2. By **7/16/2006**, 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 of Adjustment, simultaneously with the building permit application. (BUILDING: DATE: ZONING)
3. Prior to the Development Order expiration (**3/16/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BOFA2006-00208, Louis and Cecile Vilardo, owners, to allow an existing pool under construction to encroach into the required rear setback.

Your name for the record?

MR. VILARDO: Louis Vilardo.

CHAIRPERSON KONYK: Staff has recommended one condition. Do you understand and agree with that?

MR. VILARDO: I do.

CHAIRPERSON KONYK: Okay. Any member of the public here to speak against this item?

Against? Is it relating directly to the variance itself?

UNIDENTIFIED SPEAKER: Yes, we filled out a form, too.

CHAIRPERSON KONYK: Okay. I'll have to pull this item and reorder it to the first item on the regular.

CHAIRPERSON KONYK: Next item is BOFA2006-00209, Jose Soto, agent for Maria Salgado, to allow an existing room addition to encroach into the

required front setback.

MR. SOTO: My name is Jose Luis Soto.

CHAIRPERSON KONYK: Okay, sir. Staff has recommended two conditions. Do you understand and agree with those?

MR. SOTO: Yes, ma'am.

CHAIRPERSON KONYK: Any member of the public here to speak against this item?

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: Two, one in approval and one for clarification.

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

(No response)

CHAIRPERSON KONYK: Seeing none, this item will remain on the consent agenda. You may have a seat until we vote.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **5/16/2006**, 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 of Adjustment, simultaneously with the building permit application. (BUILDING: DATE: ZONING)
2. Prior to the Development Order expiration (**3/16/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BOFA2006-00210, Kilday and Associates, agent for K. Hovnanian, to allow a reduction in the required setbacks and separations for proposed townhouse units.

Name for the record?

MS. COLEMAN: Jaime Coleman, Kilday & Associates.

CHAIRPERSON KONYK: Staff has recommended one condition. You understand and agree with that?

MS. COLEMAN: We do.

CHAIRPERSON KONYK: Any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: Two, one disapprove with no comment and the other was just for clarification.

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

(No response)

CHAIRPERSON KONYK: Seeing none, this item will remain on consent. You may have a seat.

MR. SEAMAN: I need to interject a correction on that one.

CHAIRPERSON KONYK: On that one? Okay, come on back then.

MR. SEAMAN: We have a merging problem with EPZB, so if you'd turn to page 43 of your report. Under Zoning District, it says "PUD"; it actually should say "AR". These are just clerical corrections.

And the lot area is not 10.21 acres; it's 10.4. And the legal ad, how do we say this? The location is 4630 Lantana Road, approximately 200 feet south of Lantana Road and approximately .19 of a mile west of Military Trail. What needs to be stricken there is words that shouldn't have been there, simply the words, "...south of Lantana Road and approximately .09 miles..." should be stricken.

Other than that the legal ad was correct.

CHAIRPERSON KONYK: Other than that? Okay.

MR. SEAMAN: Those words, they just don't work.

CHAIRPERSON KONYK: Okay. Are you okay with that?

MS. COLEMAN: Yes.

CHAIRPERSON KONYK: Okay.

MS. COLEMAN: Thank you.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. Prior to DRO Approval, the applicant shall have the approved variance, pursuant **BA-2006-210**, labeled on the Approved Site Plan. (DRO: EVENT: ZONING)

CHAIRPERSON KONYK: BOFA2006-00213, Land Design South, agent for Tallman, LLC, owner, to eliminate the required ten foot offset for a chain link fence in the right-of-way.

Name for the record?

MR. TERRY: Brian Terry, Land Design South.

CHAIRPERSON KONYK: Staff has recommended one condition. Do you understand and agree with that?

MR. TERRY: I do.

CHAIRPERSON KONYK: Any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are none.

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

(No response)

CHAIRPERSON KONYK: Seeing none, this item will remain on consent. You may have a seat.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **3/16/2007**, the Approved Site Plan for Murphy's Towing (P-88-33) shall be amended through the DRO section of the Zoning Division to reflect the variance approval pursuant BA-2006-213. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: BOFA2006-00214, Maverick and Dorothy Taylor, to allow a proposed carport enclosure to encroach into the required side interior setback.

Name for the record?

MR. TAYLOR: Maverick Taylor.

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

MR. TAYLOR: Yes.

CHAIRPERSON KONYK: Okay. Any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: Four, two in approval and two for clarification.

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

(No response)

CHAIRPERSON KONYK: Seeing none, this item will remain on consent. You may have a seat.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **5/16/2006**, 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 of Adjustment, simultaneously with the building permit application. (BUILDING: DATE: ZONING)
2. Prior to the Development Order expiration (**3/16/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. Prior to issuance of the building permit for

the carport enclosure, the applicant shall obtain signed easement release forms from all holders of the easement along the west/rear property line for the existing fence; or the fence shall be moved outside of the easement. (EVENT: BUILDING: ZONING)

CHAIRPERSON KONYK: Next item is BOFA2006-00223, Land Design South, agent, for Southland Centers, to allow a wall sign on a facade not facing the street.

MR. BENTZ: Bob Bentz again, with Land Design South. We agree with the conditions.

CHAIRPERSON KONYK: Okay, great. Any member of the public here to speak against this item?

All right. Then we don't need to hear from you if you're not against it. I mean, if you're against it we'd have to pull it and have a full hearing.

Did you want to say something? I mean, you're welcome to if you want to.

MR. BENTZ: Which parcel are you here for?

UNIDENTIFIED SPEAKER: I'm getting confused.

MR. BENTZ: You're here for Yamato; is that what you're here for?

UNIDENTIFIED SPEAKER: I'm here for the 441.

MR. BENTZ: This is not it. That's the next one.

UNIDENTIFIED SPEAKER: Okay, sorry.

CHAIRPERSON KONYK: Oh, no problem. You did get sworn in, right?

UNIDENTIFIED SPEAKER: Yes.

CHAIRPERSON KONYK: Okay, just checking. Any letters?

MR. SEAMAN: There are six, four in approval and two disapprove. The disapproval just says we don't want any more signs.

CHAIRPERSON KONYK: Okay. Any Board member feel this item warrants a full hearing?

(No response)

CHAIRPERSON KONYK: Seeing none, this item will remain on consent.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **3/16/2007**, the Approved Site Plan for Spalding MUPD (P-99-92) shall be amended through the DRO section of the Zoning Division to reflect the variance approval pursuant BA-2006-223. (DRO: DATE: ZONING)



2. By **6/16/2006**, 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 of Adjustment, simultaneously with the building permit application. (BUILDING: DATE: ZONING)
3. Prior to the Development Order expiration (**3/16/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: Next item is BOFA2006-00225, Land Design South, agent, for Palm Beach County Property and Real Estate Management, to allow elimination of the incompatibility buffer. Location, the Hamptons PUD.

Name for the record?

MR. LELONEK: Good morning, Joe Lelonek, with Land Design South.

MR. PUZZITIELLO: Everybody's here today.

MR. LELONEK: Yeah, old school day.

CHAIRPERSON KONYK: Billable. Staff has recommended -- I'm just kidding, I'm really kidding.

Staff has recommended one condition. Do you understand and agree with those?

MR. LELONEK: We do.

CHAIRPERSON KONYK: Any member of the public here to speak against this item?

VICE-CHAIRMAN BASEHART: It's your turn.

UNIDENTIFIED SPEAKER: Concerns, not against.

CHAIRPERSON KONYK: Well, why don't you step forward?

UNIDENTIFIED SPEAKER: It's short.

CHAIRPERSON KONYK: Step forward and give us your name for the record and we'll see if we have to pull it off the consent or not.

MS. POSTHUMUS: My name is Susan Posthumus.

CHAIRPERSON KONYK: Would you spell that or you gave a card already?

MS. POSTHUMUS: I gave a card.

CHAIRPERSON KONYK: Then we're fine.

MS. POSTHUMUS: My apologies for not being clear on it. I do apologize.

These are concerns. I do have two letters that some people gave to me that -- others have not, some say they have not received this letter, but they're not necessarily opposed, but they have concerns. I have two letters that have concerns but not necessarily opposed, as I said again.

The concerns were with the wall -- okay, the berm is that beautification on that side of the wall if you look at the picture, okay, on the canal, I'm not sure if you have that in front of you is that the beautification and size of the trees that are going to be hiding this portion of the wall because right now there are trees, they are tall trees that provide, that act as a buffer and provide privacy as well as shade and beautification.

They are concerned about that, as well as I am. I'm speaking for myself.

CHAIRPERSON KONYK: Right, I gotcha.

MS. POSTHUMUS: I have two letters. The other thing that I, myself -- that was one thing. The one thing that I'm concerned about as well is the beautification on that side and if this berm is going to be continued for the length of the property because the property was divided, okay. Part of it was sold off to Land Design that they're working for, okay, and I am -- the other part was to remain as a park for the County.

Now, I'm concerned about that they're taking all of the wall, all of the berm that is presently there that's acting as a buffer and beautification for that. I know that they're intending to replace a portion of that buffer, the buffer that goes all the way down.

But I do not believe that they're continuing to do it with substantial trees or buffer. Am I correct --

CHAIRPERSON KONYK: Can you answer that real quick or otherwise, we'll have to pull it.

MS. POSTHUMUS: - to act as a buffer?

MR. LELONEK: The explanation is pretty quick. I just don't want to hold everybody else up.

From the terms of the site itself, this is more of a technical issue than anything else. We are going to be providing a buffer as part of the zoning application that's going through the process. We've had numerous meetings with the homeowners association and we're preparing or providing a pretty substantial buffer along the eastern boundary of this parcel. It will include a berm, a wall, a new landscape program.

The vegetation that I believe Ms. Posthumus is referring to is the Australian pines that exist all the way along that property frontage. Those will have to come out. Unfortunately, that's just the rule in the County with any new development even in the existing park area.

But we're providing in the area that we're controlling, we're providing a substantial buffer by today's standards or even by any condition of approval standards and will be continuing to meet with the homeowners association and the residents through the zoning process.

CHAIRPERSON KONYK: Do you understand that Australian pines have to come out any time there's new development?

MS. POSTHUMUS: Yes, I'm fully aware of that,

but what my concerns are is sometimes with today's replanting, they plant trees that are much smaller and I'm not concerned -- I'm not really -- what I'm talking about is the trees and what they provide at this time.

They provide beautification regardless of what species they are, they do gotta come out. What I'm concerned about is that they're going to be replaced even along the berm, I'm talking about that parcel that they're going to be replaced with smaller trees that are probably, you know, that are very thin and they're not providing the shade or the beautification.

CHAIRPERSON KONYK: We're looking for the screening more than the beautification.

MS. POSTHUMUS: Well, perhaps I'm using the wrong one. But we just want to make sure, we want it recommended possibly that it can be recommended today that they use for beautification on that side as well as we want to continue it. You know, the parks and rec are supposed to be doing that, but we're hoping that it can be recommended that they put in a proper, a proper size screening as well as for the buffer, just not --

CHAIRPERSON KONYK: They're just going to do -- I mean, he's already saying that they're exceeding County standards for what they're required to do and we can't make them do any more than that.

MR. LELONEK: We are and I can't stress it enough that the Australian pines that will come down are a very heavy, dense buffer.

The new stuff that we're going to be planting is going to be oaks and native species, especially given the hurricanes of the last two years. We have seen that the best types of trees out there are those things that when you plant them at first they may be 14 to 16 foot tall, but they still will not have the same look and appearance as the Australian pines, at least for the first couple of years.

So we're not promising the moon, but we are looking to come in there with as intense as a landscape buffer as we can, and we have worked on the conditions with the homeowners association and with the individuals to do that, so.

CHAIRPERSON KONYK: Okay.

MR. JACOBS: What happens if you don't get the variance?

CHAIRPERSON KONYK: All right, wait, wait. If you're going to start asking questions, I have to pull this off the regular -- the consent.

VICE-CHAIRMAN BASEHART: Are you not settled on this? Do you want to continue?

MR. JACOBS: Well, I've got a question.

CHAIRPERSON KONYK: Then we'll pull it. BOFA2006-00225 is being re-ordered to the second item on the regular agenda.

CHAIRPERSON KONYK: BATE2006-00280, Sara Lockhart for Southern Waste Systems, to allow a two-month time extension.

Is the applicant present?

MR. SEAMAN: She's not here, but she e-mailed me this morning and agreed with the --

CHAIRPERSON KONYK: There aren't any conditions. Okay. Any member of the public here to speak against this time extension?

(No response)

CHAIRPERSON KONYK: Any Board member feel this item does not warrant a time extension?

(No response)

CHAIRPERSON KONYK: Seeing none, BATE2006-00208 will stay on consent.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **2/15/2006** or prior to DRO certification, the applicant shall amend the approved site plan to reflect the variance approval pursuant BA-2005-1428. (DRO: DATE: ZONING)

#### **IS HEREBY AMENDED TO READ:**

1. By **4/22/2006** or prior to DRO certification, the applicant shall amend the approved site plan to reflect the variance approval pursuant BA-2005-1428. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: SD-130, Palm Beach County Property and Real Estate Management, requesting variance from the requirement that access to each subdivision lot shall be by a minor street of suitable classification and construction.

Is the applicant present? Is Land Design doing this one or not? It doesn't say Land Design is the agent.

MR. LELONEK: I'm sorry. I was back there.

CHAIRPERSON KONYK: Okay. Great. It doesn't have you listed in the little thing I've got here.

VICE-CHAIRMAN BASEHART: Unless they say otherwise, Land Design South is doing it.

CHAIRPERSON KONYK: Okay, gotcha. Today, right? Okay.

MR. LELONEK: My apologies.

CHAIRPERSON KONYK: No problem. No conditions. Any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: No.

CHAIRPERSON KONYK: Any Board member feel that this warrants a full hearing?

(No response)

CHAIRPERSON KONYK: Seeing none, SD-130 will remain on consent.

CHAIRPERSON KONYK: Let me just recap the consent and then we'll look for a motion.

On consent we have BOFA2005-01448, BOFA2006-00200, BOFA2006-00201, BOFA2006-00202, BOFA2006-00203, BOFA2006-00205, BOFA2006-00209, BOFA2006-00201 [sic], BOFA2006-00213, BOFA2006-00214, BOFA2006-00221, BOFA2006-00223, BATE2006-00280, SD-129, SD-130 are the items that are on the consent and we have two items reordered to the regular, which were BOFA2006-00208, which will be the first item heard, and BOFA2006-00225, which will be the second item heard.

Any Board member prepared to make a motion on the consent items?

VICE-CHAIRMAN BASEHART: Madam Chair, I'd like to make a motion that we approve the consent agenda, minus the two items that you just referred to as being pulled.

CHAIRPERSON KONYK: Wait, we've got something.

MS. HELFANT: Madam Chair, on BOFA2006-00210, I believe you had mentioned it as 2006-00201. I just want to make sure it's the correct one --

CHAIRPERSON KONYK: All Right. Go on.

VICE-CHAIRMAN BASEHART: My motion is to approve the consent agenda minus the two items that you referenced as pulled, and I would like the record to reflect that the actual substance of the hearing is based on the staff report and recommendations and, of course, the motion is with the approval conditions that were attached to each and every one of them.

MR. SADOFF: I second Mr. Robert Basehart's motion.

CHAIRPERSON KONYK: Great. Mr. Sadoff seconds. Any discussion?

(No response)

CHAIRPERSON KONYK: All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response)

CHAIRPERSON KONYK: Motion carries unanimously. Will the letters be mailed or do you have them?

MR. SEAMAN: They'll be mailed.

MR. PUZZITIELLO: They'll always be mailed.

CHAIRPERSON KONYK: They're mailing them now. Okay. Everybody that was on the consent agenda is free to leave, and your letters will be mailed.

CHAIRPERSON KONYK: Let's move to the first item on the regular agenda. It's BOFA2006-00208. Is the applicant present?

Again, just your name for the record and then we'll have staff read the legal and then we'll hear your --

MR. VILARDO: My name is Louis Vilardo.

CHAIRPERSON KONYK: Will somebody close that door out there so we can hear? Okay. Louis Vilardo.

Staff, want to read this legal?

MR. SANFORD: Louis and Cecile Vilardo, owners, to allow an existing pool under construction to encroach into the required rear setback location at 1901 Tudor Road, approximately 120 feet east of Ellison Wilson Road and 0.47 miles west of U.S. Highway 1 within the Juno Isles Number 2 subdivision in a single family residential zoning district.

CHAIRPERSON KONYK: Okay. You've provided us with your justification and staff has agreed with it. I'm not going to -- I'm going to ask you if you want to go through a full presentation or if you want to hear from the people that are objecting first as to why they're objecting and we can determine whether or not it relates directly to the variance.

MR. VILARDO: The latter would be fine. Thank you.

CHAIRPERSON KONYK: If the people that are objecting to this would come forward and give us your names for the record?

And verify that you have been sworn in.

MS. KNAPP: Kathy Knapp and I have been sworn in.

MR. KNAPP: Edward Knapp, I have been sworn in, also.

CHAIRPERSON KONYK: Okay. This is a one-foot variance; is that what it is?

VICE-CHAIRMAN BASEHART: Yeah, 1.49 feet.

CHAIRPERSON KONYK: Okay. What page is that on?

VICE-CHAIRMAN BASEHART: Page 38.

CHAIRPERSON KONYK: No, it's on page 33. It's a one-foot variance under -- okay. So they're

encroaching one foot in the required rear setback and that's what you're objecting to?

MRS. KNAPP: We're not objecting, we have questions.

MR. KNAPP: No, we're not objecting to the pool.

CHAIRPERSON KONYK: Okay. That's why we pull things because you were objecting to the variance, but go ahead and tell us what your concern is.

MR. KNAPP: First of all, on page -- where the aerial summary is, it speaks of the applicant already has an existing six-foot fence to mitigate any impact it might have on the surrounding area. That fence behind that pool is our fence, so it's not the applicant's fence.

MRS. KNAPP: It's our fence.

CHAIRPERSON KONYK: Okay. Do you want us to change that there's an existing fence?

MR. KNAPP: Yeah, I'd like to make sure it's accurate. I don't -- by right of eminent domain I'd lose my fence.

CHAIRPERSON KONYK: You won't, but that's okay. Do you want to have the record reflect that the fence that's referred to is not under the ownership of the applicant but of the neighbor behind?

MR. KNAPP: Right. And then the second sentence, "This variance request was not self-created by the applicant, but was however a failure of earlier inspections to identify the non-conformity."

My comment there was early on and during the permit process it showed a dimension of 16 feet 5 inches, and when I raised this to the Juno Isles Homeowners Association, as well as to the County, they said well, there's no variance requirement because there's no indication that there is a violation.

And my whole concern there is, and again, I want to emphasize that I don't object to the pool, is the process. It's like anything else, it's like a like a computer system or anything else -- garbage in/garbage out. So if I give you a bunch of incorrect documentation, I'm looking at the County process and I'm seeing there's no checks and balances in the process.

The other issue I was concerned about is the construction method, the gunite that they used for construction of this pool. We had gunite - on this aerial photo, we had gunite on our cars on the front side of Ellison Wilson, probably about 200 feet away. We had it in our air conditioning. We had it in our windows. I spent two, three days in the evenings cleaning everything up.

And when I talked to people, they said, well, you know, talking to some of the other people that have these buildings -- these pools built, that's never been an issue. I don't understand why they can't tent that and -- because I shouldn't have to go through and clean up my property afterwards. I had to clean my walls on the back, my cars. She just got done cleaning the cars, so

it's just a massive amount of work. I'm fortunate that I can do that work, but I don't have the time and it's not my profession to do that. But that was my feeling. You have any comments on that?

MRS. KNAPP: I have questions about the permit itself. As far as what it covers, it covers the existing pavers and pool; correct? If they wanted to put anything else in, a cover over the pool, would they have to get another permit?

CHAIRPERSON KONYK: A permit? Yeah. They would have to get another one.

MR. SEAMAN: A screen enclosure? Yeah.

MR. KNAPP: Would that be a variance because of the setback requirements, the easement there?

VICE-CHAIRMAN BASEHART: Not necessarily. I mean, I think the setbacks are set up for screen enclosures so that the setback for pools is like three feet more than what the screen enclosure setback requirement is, you know, so if you wanted to put a screen enclosure up obviously on the one side --

MR. KNAPP: What about the potential electrical flashover from FPL's distribution lines from a metal enclosure?

VICE-CHAIRMAN BASEHART: That's not part of the concern that this Board deals with. That's a technical issue and whether they're putting a screen enclosure to close to a power line causes potential electrical flash problems, you know.

MR. SEAMAN: We would need to have an application submitted so we could review all that information.

MR. KNAPP: For the record, if it is done, you should look at the National Electric Safety Code, which deals with flashover and --

CHAIRPERSON KONYK: That wouldn't be this Board. We have nothing to do with that because they wouldn't be coming back for a variance. That would be if they pulled a permit to -- it wouldn't come up there at all.

The only thing we're dealing with is this one foot variance right now, and you're concerned about the screen enclosure while it's legitimate, I would assume, is not something that this Board will ever come into contact with.

If they do pull a permit for a screen enclosure, obviously that permit has to be posted and you would have an opportunity maybe to talk to permitting.

MR. KNAPP: Because if there's an enclosure put around the pool --

CHAIRPERSON KONYK: Okay. Honestly, that has nothing to do with this Board.

MR. KNAPP: Wouldn't that create another variance?

CHAIRPERSON KONYK: No, because the setbacks for pool enclosures are -- they have no -- are less. It's a different setback. So let's say -- I don't know, what's a pool setback, ten feet?

MR. SEAMAN: Well, this is not -- it's only a small encroachment, not the entire length of the pool, this one small area where it --



MR. KNAPP: I realize that, but I'd just like to --

CHAIRPERSON KONYK: But everything --

MR. KNAPP: I'm just fascinated by the process.

CHAIRPERSON KONYK: Okay. Well, that's good, but this is the process for the variance and the permittings are another process, another department.

VICE-CHAIRMAN BASEHART: Even though it's really not germane to this issue, I mean, there are checks and balances in the system; that's why we're here. If there were no checks and balances, nobody would have ever caught the issue and you know, the pool would have been completed and you know, maybe nobody --

MR. KNAPP: My comment is the checks and balances need to be up front, not -- you know, that's -- the checks and balances should be proactive not reactive, you know.

VICE-CHAIRMAN BASEHART: Okay. Well, I mean, the relevant issue here is do you feel that the granting of the one foot variance for a little portion of this pool will cause hardship to you or, you know, adverse impact? I mean, that's the issue.

Judging from what you've said, you don't really have an issue with it.

MRS. KNAPP: As far as the impact goes, that's already happened. He's already had some --

CHAIRPERSON KONYK: Right, I understand, the gunite and all that.

MRS. KNAPP: All the damage that was done, yeah, that's been done, but as to whether they're going to put anything else up, you know, that's why I was asking because then we've got to try to protect our property.

CHAIRPERSON KONYK: Right, and you certainly have that right. The thing is that whatever happens, and I don't know that it did or didn't happen, I'm not saying that it did, but what you claim has happened with the gunite is a civil matter that you could take up with them.

Also, it probably would have been the same situation regardless of the variance.

MR. KNAPP: See, I had to get that gunite removed immediately because if anybody has ever worked with --

CHAIRPERSON KONYK: Sir, it has nothing to do with this Board, though. We really can't take up any -- we have other people that have to be heard.

MR. KNAPP: Okay.

MRS. KNAPP: Okay. Thank you for your time.

MR. KNAPP: My comment is the process. Get the process -- you guys are all -- some of these people are engineers, they should know how to do this.

CHAIRPERSON KONYK: Right. Thank you for your concerns and your comments. Okay. We've heard from the public.

Would the applicant come forward? The public portion of the hearing is now closed. Staff

has recommended approval on this variance.

Did you have any letters? I can't remember now.

MR. SEAMAN: None.

CHAIRPERSON KONYK: Okay. Does any Board member feel that this item warrants a variance, if you'd like to make a motion for that, or does not warrant a variance, make a motion for that?

MS. CARDONE: Madam Chairman, I would move that we approve the variance BOFA2006-00208 with the conditions as stipulated.

MR. JACOBS: Second.

CHAIRPERSON KONYK: Okay. We have a motion by Ms. Cardone. I don't know who made the second.

MR. JACOBS: I seconded it.

CHAIRPERSON KONYK: Mr. Jacobs has made the second. Any discussion?

(No response)

CHAIRPERSON KONYK: All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response)

CHAIRPERSON KONYK: Motion carries unanimously.

MR. VILARDO: Thank you.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. Prior to the Development Order expiration (**3/16/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: Next item on the regular agenda is BOFA2006-00225, Land Design South, agent, for Palm Beach County Property.

Name for the record?

MR. LELONEK: Good morning again, Joe Lelonek with Land Design South.

After a quick conversation with the homeowner, I think the real issue that she's had is some erroneous information about how tall the trees were going to be planted.

Someone from her association has been saying five to six feet when the code minimums are twelve feet, and we've gone above and beyond in our graphics and what we've committed. So I would be happy to continue going through and explaining the program a little further if you need.

CHAIRPERSON KONYK: We don't. We're just more concerned about her. If she would like to

step forward and tell us if we can proceed with this?

MS. POSTHUMUS: Yeah, I feel much more comfortable after talking with them and they have been very courteous all along, but it was obviously erroneous information and that's why I'm here today.

Also as well as to just tell the concerns about the privacy issue with the buffer, you know, just not stopping there, hopefully that the builder would help with the parks and rec department on that.

But I'm much more comfortable and I'm sure that I will pass that on to the other individuals with concerns, and I thank you.

CHAIRPERSON KONYK: Thank you. Okay. We've got the objection resolved and we have staff recommending approval.

Do we have any Board member that feels this item still warrants a full hearing?

VICE-CHAIRMAN BASEHART: Madam Chair, I'd like to make a motion that we approve BOFA2006-225.

I believe that based on the information in the staff report that the applicant has met the standard to justify the variance, so my motion is based on that subject to -- are there conditions here?

MR. SADOFF: I always second Robert Basehart's motions, so I second it.

CHAIRPERSON KONYK: All right. We'll let you do that, but we're going to let him finish. He's got a couple more things he wants to say, but we'll take note that you second it.

MR. SADOFF: He has more things to say?

CHAIRPERSON KONYK: Absolutely. You know, this is the Robert Basehart hour.

VICE-CHAIRMAN BASEHART: I don't see any conditions.

CHAIRPERSON KONYK: There's one condition.

VICE-CHAIRMAN BASEHART: With that one condition of approval.

CHAIRPERSON KONYK: Okay. We have a motion by Mr. Basehart, a second by Mr. Sadoff.

All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response)

CHAIRPERSON KONYK: Motion carries unanimously.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **3/16/2007**, the Approved Site Plan for Hamptons PUD (P-78-5) shall be amended through the DRO section of the Zoning Division to reflect the variance approval pursuant BA-2006-225. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: We're going to adjourn this regular meeting and then if you all will hang around for a little bit we'll go into our workshop after the meeting is adjourned and the room is cleared.

(Whereupon, the meeting was adjourned at 9:45 a.m.)

\* \* \* \* \*

C E R T I F I C A T E

THE STATE OF FLORIDA )

COUNTY OF PALM BEACH )

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

DO HEREBY CERTIFY that the above-entitled and numbered cause was heard as hereinabove set out; that I was authorized to and did report the proceedings and evidence adduced and offered in said hearing and that the foregoing and annexed pages, numbered 4 through 28, inclusive, comprise a true and correct transcription of the Board of Adjustment hearing.

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

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 10th day of April, 2006.

\_\_\_\_\_  
Sophie M. (Bunny) Springer