

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

THIS ITEM WAS CONTINUED FROM THE SEPTEMBER 28, 2004 BCC REGULAR MEETING

SUBJECT: Appeal of the Board of Adjustment's decision to deny a request for special exception to establish gasoline pumps as an accessory use to a convenience store in the PUD (Planned Unit Development District).

DEPARTMENT: Planning & Development DIVISION: Planning

AUTHORIZED BY: Donald Fisher CONTACT: Francisco Torregrosa EXT. 7387

F.T.

Agenda Date <u>10/12/04</u>	Regular <input type="checkbox"/>	Consent <input type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input type="checkbox"/>	Public Hearing – 7:00 <input checked="" type="checkbox"/>		

MOTION/RECOMMENDATION:

1. **UPHOLD** the Board of Adjustment's decision to deny the request for special exception to establish gasoline pumps as an accessory use to a convenience store in the PUD (Planned Unit Development District); (Micah Savell for Trinity Capital LTD, applicant); or
2. **REVERSE** the Board of Adjustment's decision to deny the request for special exception to establish gasoline pumps as an accessory use to a convenience store in the PUD (Planned Unit Development District); (Micah Savell for Trinity Capital LTD, applicant); or
3. **CONTINUE** the request to a time and date certain.

(District 1 - Maloy)

(Francisco Torregrosa, Planner)

This item had been scheduled for the July 27, 2004 BCC regular meeting but was continued to the September 28, 2004 BCC regular meeting at the request of the applicant. Again at the request of the applicant, this item was continued from the September 28, 2004 BCC regular meeting to the October 12, 2004 BCC regular meeting.

After careful review of documents pertaining to the zoning history of this property, staff finds that the Development Order prepared and signed by the applicants following a partial rezoning of the PUD during the March 12, 2002 BCC regular meeting is in disagreement with the prepared staff report and

Reviewed by:	<i>[Signature]</i>
Co Atty:	<i>[Signature]</i>
DSF:	<i>[Signature]</i>
Other:	<i>[Signature]</i>
DCM:	<i>[Signature]</i>
CM:	<i>[Signature]</i>
File No.	ph700pdp03

statements made at the aforementioned BCC meeting. In particular, the executed Development Order excludes commercial uses which were allowed by a previous Development Order (1990) and which neither the applicant nor staff requested be removed as permitted uses on the commercial tracts. The original PUD Development Order approved in 1990 allowed certain commercial uses including gasoline pumps. For this reason, staff finds that the proposed gasoline pumps accessory to a convenience store use is a permitted use in this PUD and therefore does not require special exception approval.

BOARD OF ADJUSTMENT DECISION:

On April 26, 2004, the Board of Adjustment denied a request to establish gasoline pumps as an accessory use to a convenience store in the Trinity Retail Center PUD (Planned Unit Development District) located at the southeast corner of the intersection of Tuskawilla Road and S.R. 426. The Board of Adjustment based its denial on the potential of the proposed development to adversely impact the public interest by creating a cut-through path along the service drive of the proposed convenience store. The result would be the avoidance of the traffic signal at Tuskawilla and S.R. 426 and the subsequent generation of undue traffic adjacent to the existing town homes. Staff had recommended approval of the request with conditions.

STAFF RECOMMENDATION:

Based upon the findings stated in the staff report, staff recommends the Board of County Commissioners reverse the decision of the Board of Adjustment and approve the request to establish gasoline pumps as an accessory use to a convenience store in the PUD (Planned Unit Development District) with the conditions as stated in the staff report.

STAFF REPORT

GENERAL INFORMATION	Applicant: Location: Zoning:	Micah Savell for Trinity Capitol LTD SE corner of Tuskawilla Rd. & S.R. 426 PUD (Planned Unit Development District)
BACKGROUND/ REQUEST	<ul style="list-style-type: none"> • The property was originally rezoned to PUD in 1990. Uses allowed east of Tuskawilla Road included car washes and convenience stores with gasoline pumps. The PUD was amended in 2002 to allow town homes and commercial uses along S.R. 426. • The applicant proposes to establish gasoline pumps as an accessory use to a convenience store in the Trinity Retail Center PUD. 	

- The Developer's Commitment Agreement restricts commercial uses to those of the C-1 District, which allows convenience stores with gasoline sales by special exception.

ZONING & FLU	Direction	Zoning	FLU	Use of property
	Site	PUD	PD	Vacant Commercial
	North	PUD & PCD	HIP-TR & PD	Convenience store & residential
	South	PUD	HIP-TR	Townhomes
	East	PCD	HIP-TR	Self storage
	West	PUD	HIP-TR	Townhomes

STANDARDS FOR GRANTING A SPECIAL EXCEPTION; LDC SECTION 30.43(b)(2)

Is not detrimental to the character of the area or neighborhood or inconsistent with trends of development in the area:

The proposed use would represent the development of a vacant commercial tract within the Trinity Retail Center PUD. The proposed use is similar to other commercial uses, including convenience stores occurring at the intersection of Tuskawilla Road and S.R. 426. For this reason, staff does not believe the proposed gasoline pumps, as an accessory use to a convenience store, would be detrimental to the character of surrounding development.

Does not have an unduly adverse effect on existing traffic patterns, movements and volumes:

The proposed convenience store and 10 gasoline pumps (20 fueling positions) is estimated to generate between 200 and 270 trips per peak (a.m. and p.m.) hour of operation. According to the 2003 travel time and delay study conducted by the Traffic Engineering Division, the intersection is currently operating at a level of service (LOS) "F" during a.m. peak time and LOS "E" during p.m. peak time. However, capacity along the adjoining road network was determined to be sufficient for the range of permitted and special exception uses (including convenience stores with accessory gasoline pumps) allowable in the Trinity Retail Center PUD's commercial tract at the time of final master plan approval.

Is consistent with the Seminole County Comprehensive Plan (Vision 2020):

The Seminole County Vision 2020 Comprehensive Plan

	<p>describes HIP-TR (Higher Intensity Planned Development – Transitional) as a future land use category appropriate for a variety of higher intensity uses (including convenience stores with accessory gasoline pumps) that are located at the intersections of major roadways and along major roadways as infill development where the use is already established.</p> <p>With the imposition of staff’s recommended conditions, the proposed convenience store, with accessory gasoline pumps, would be consistent with this description, given the subject property’s location on W. S.R. 426, which is defined as a principal arterial roadway.</p> <p><u>Meets any additional requirements specified in the code section authorizing the use in a particular zoning district or classification:</u></p> <p>Based on the submitted site plan, the proposed use would meet the minimum area and dimensional requirements of the Trinity Retail Center PUD that equate to those of the C-1 District.</p> <p><u>Will not adversely affect the public interest:</u></p> <p>With the imposition of staff’s recommended conditions, the proposed use would be consistent with other convenience stores with gasoline pumps located on the northeast and northwest corners of this intersection. In addition, the site shall meet the requirements of the newly adopted lighting ordinance design standards to minimize off-site glare and illumination.</p>
STAFF FINDINGS	<p>Staff believes the proposed use would be compatible with the trend of development in the area for the following reasons:</p> <ul style="list-style-type: none"> • The property is served by existing water and sewer services; • There are no identified areas of environmental concern; • The property is a commercial tract of the Trinity Retail Center PUD to be developed for C-1 uses according to the Developer’s Commitment Agreement; • The proposed use would not have a significant adverse impact on existing traffic patterns, movements or volumes; • The proposed use would be consistent with the Comprehensive Plan’s designation of HIP-TR future land use for the subject property;

	<ul style="list-style-type: none"> • The proposed use would not adversely affect the public interest; and • The proposed use would be compatible with the commercial character of development along this segment of W. State Road 426.
<p>STAFF RECOMMENDATION</p>	<p>Based on the stated findings, staff recommends the Board of County Commissioners reverse the decision of the Board of Adjustment and approve the request for special exception with the imposition of the following conditions:</p> <ol style="list-style-type: none"> 1. Hours of operation shall be limited to 6:00 a.m. to 12:00 a.m.; truck delivery hours shall be limited to 7:00 a.m. to 11:00 p.m. 2. Electrical equipment facing south of the building shall be screened with appropriate landscaping if on the ground or screened with a parapet wall if on the roof of the building; 3. No illuminated signage shall be allowed along the southern face of the proposed building; illuminated signs shall be turned off when the business is closed; 4. Automotive mechanical repairs shall be prohibited; 5. The outdoor storage of supplies, materials or merchandise shall be prohibited; 6. The site shall be developed in accordance with the approved Developer's Commitment Agreement for the Trinity Retail Center PUD; 7. An active setback and buffer shall apply along the south property line, as required by the Land Development Code; the dumpster depicted on the proposed site plan shall be removed from the required buffer; 8. A listed species survey shall be conducted prior to final site plan approval; 9. The proposed right in / right out driveway shall be dependent upon FDOT approval; and 10. The proposed use shall otherwise comply with the Seminole County Comprehensive Plan and Land Development Code.

ATTACHMENTS: Trinity Retail Center PUD DCA
Zoning & Future Land Use maps
Correspondence
Application for special exception
Location map
Property appraiser report
Proposed development order
Board of Adjustment meeting minutes

Recorded denial order
Proposed site plan
Decision on appeal

SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS
DECISION ON APPEAL

This decision is made by the Board of County Commissioners of Seminole County, Florida, this 12th day of October 2004, in accordance with Section 30.43 of the Land Development Code of Seminole County (LDC), as amended, reversing a decision of the Board of Adjustment to deny a special exception for the establishment of gasoline pumps accessory to a convenience store at the Trinity Retail Center PUD (Planned Unit Development).

A. FINDINGS OF FACT

1. On April 26, 2004, the Board of Adjustment denied a special exception to allow the establishment of gasoline pumps accessory to a convenience store at the Trinity Retail Center PUD, as requested by Micah Savell, on the property further described by the following legal description:

LOT 1 TRINITY CENTER PB 61 PGS 92 & 93

2. The Board of County Commissioners has the authority and responsibility to adjudge this appeal by virtue of Section 30.43(f), LDC.

3. On October 12, 2004, the Board of County Commissioners heard an appeal of this decision.

B. CONCLUSIONS OF LAW

The Board of County Commissioners finds that the subject special exception is in conformance with Section 30.743 of the Land Development Code of Seminole County due to the following:

1. The Board hereby agrees with and adopts the staff recommendations as reflected in the Agenda Memorandum, Item # _____.
2. The subject special exception meets all of the criteria in Section 30.743(a), LDC, for granting special exceptions because:

9. DEVELOPMENT COMMITMENTS

1. The development will not be designed or marketed as student housing.
2. Front walls of townhouse units shall be staggered.
3. The 16-foot easement providing access to properties to the south shall retain its connection to SR 426, and shall be maintained at no less than its current capacity.
4. Dumpsters and mechanical units shall be located and/or screened so as not to be visible from SR 426 or Trinity Bay Subdivision.
5. The wet retention area shall be amenitized in accordance with the design criteria of Section 30.1344 of the Land Development Code in order to qualify as open space.
6. Parking spaces of 9½ feet in width shall be permitted on the commercial parcels only.
7. Commercial lots shall be subject to active/passive buffer standards on their south property line.
8. All landscape buffers and common areas within the residential portion of the development shall be maintained by a homeowners association.
9. No accessory buildings shall be allowed on individual townhouse lots.
10. The developer shall install a warning sign along S.R. 426 to notify eastbound vehicles of the traffic light at Tuskawilla Rd. The installation of this sign will be subject to FDOT approval.
11. The developer shall upgrade the traffic light at the intersection of S.R. 426 and Tuskawilla Rd. to accommodate westbound turning movements into the project, subject to approval by the Florida Department of Transportation.
12. The developer shall install a multiple lock box for mail pickup and delivery along the 16-foot easement. This mailbox shall be for the use of current residents who have mailboxes along the 16-foot easement.
13. The northern portion of the 16-foot easement shall be paved to provide access to the commercial and residential portions of the project. The remainder of the easement will be paved with a hard surface to the south boundary of the project. Maintenance of the paved road to the south of the project access points will be provided by the owners of properties to the south of the subject property.
14. In order to improve pedestrian safety along the 16-foot access road, the developer shall install a hedge along both sides of this road.
15. If unanimous consent from the easement holders is obtained, and such consent is verified by Planning staff, then the developer shall install a 6-foot wrought iron gate which is capable of being controlled from their homes.
16. A fountain/aerator shall be installed in the retention pond by the developer.
17. The project street lighting adjacent to the western property boundary will be limited to decorative lighting affixed to the fronts of the units.

18. Window openings on the second floor of units facing the western property boundary shall be frosted-opaque.

10. WATER, SEWER AND STORMWATER

WATER: Water services shall be provided by Seminole County.

SANITARY SEWER: Sanitary sewer shall be provided by Seminole County.

STORMWATER: Stormwater drainage and stormwater management shall be provided on-site according to Seminole County's regulations.

FIRE PROTECTION: Fire protection shall be provided by Seminole County. Fire flow will be a minimum of 1,250 gpm with 20 psi. Fire hydrant shall be located according to Seminole county regulations.

11. PHASING

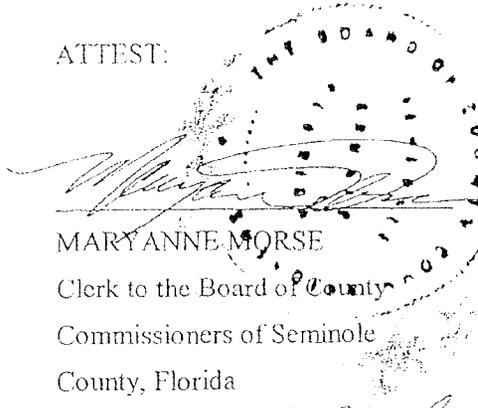
The development will be constructed in 3 phases.

12. STANDARD COMMITMENTS

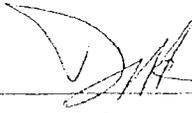
1. Unless specifically addressed otherwise herein, all development shall fully comply with all of the codes and ordinances, including impact fee ordinances, in effect in Seminole County at the time of permit issuance.
2. The conditions upon this development approval and commitments made as to this development approval have been accepted by and agreed to by the Owners of the property.
3. The Agreement touches and concerns the aforescribed property, and the conditions, commitments, and provisions of the Agreement shall perpetually burden, run with, and follow the said property and be a servitude upon and binding upon said property unless released in whole or by part by action of Seminole County by virtue of a document of equal dignity herewith. The Owners of said property have expressly covenanted and agreed to this provision and all other terms and provisions of the Agreement.
4. The terms and provisions of this Agreement are not severable, and in the event any portion of this Agreement shall be found to be invalid or illegal, then the entire Agreement shall be null and void.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA



MARYANNE MORSE
Clerk to the Board of County
Commissioners of Seminole
County, Florida

By: 
DARYL G. McIAIN, Chairman

*Trinity Petalenta Rezone
(Pud/PCD) 22001-046
Dev. Commitment agent*

OWNER'S CONSENT AND COVENANT

The undersigned party hereby agrees to the terms and conditions set forth herein this
17th day of May, 2002.

Janet Corbin Perrone
Witness

[Signature]
TRINITY CAPITAL LIMITED
By: TRINITY CAPITAL INC., General Partner
By: A.C. Leerdam, its Director

[Signature]
Witness

STATE OF FLORIDA
Orange
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 17 day of
May, 2002, by A.C. LEERDAM, who is the Director of Trinity Capital Inc.,
which is the General Partner of Trinity Capital Limited, and is personally known to me or
who has produced N/A as identification and who
executed the foregoing instrument.

WITNESS my hand and official seal in Orange County, Florida this 17 day
of 2002, 2002.

[Signature]

Notary Public, in and for the County and State Aforementioned

My Commission Expires:

PETER LEERDAM
Notary Public, State of Florida
My comm. exp. Mar. 1, 2005
Comm. No. DD 005830

OWNER'S CONSENT AND COVENANT

COMES NOW, the owner, Florida Department of Transportation, George M. Gilhooley, Director of Operations, on behalf of itself and its heirs, successors, assigns or transferees of any nature whatsoever and has no objection and agrees to the zoning change. FDOT shall not be responsible for performing any conditions, terms, provisions or commitments contained in this document.

Nancy Landry

Witness NANCY LANDRY

George M. Gilhooley

FLORIDA DEPT. OF TRANSPORTATION
For: George M. Gilhooley, District 5
Director of Operations

Linda Underhill
Witness Linda Underhill

STATE OF FLORIDA

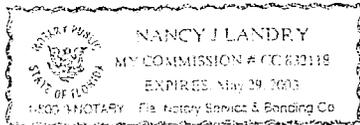
COUNTY OF SEMINOLE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared George M. Gilhooley, who is the District 5 Director of Operations for the Florida Department of Transportation, and (is personally known to me) or who has produced _____ as identification and who executed the foregoing instrument.

4th WITNESS my hand and official seal in the County and State last aforesaid this day of June 2002.

Nancy J. Landry

Notary Public, in and for the County and State Aforementioned



My Commission Expires:

Seminole County, Florida

Property Appraiser Services

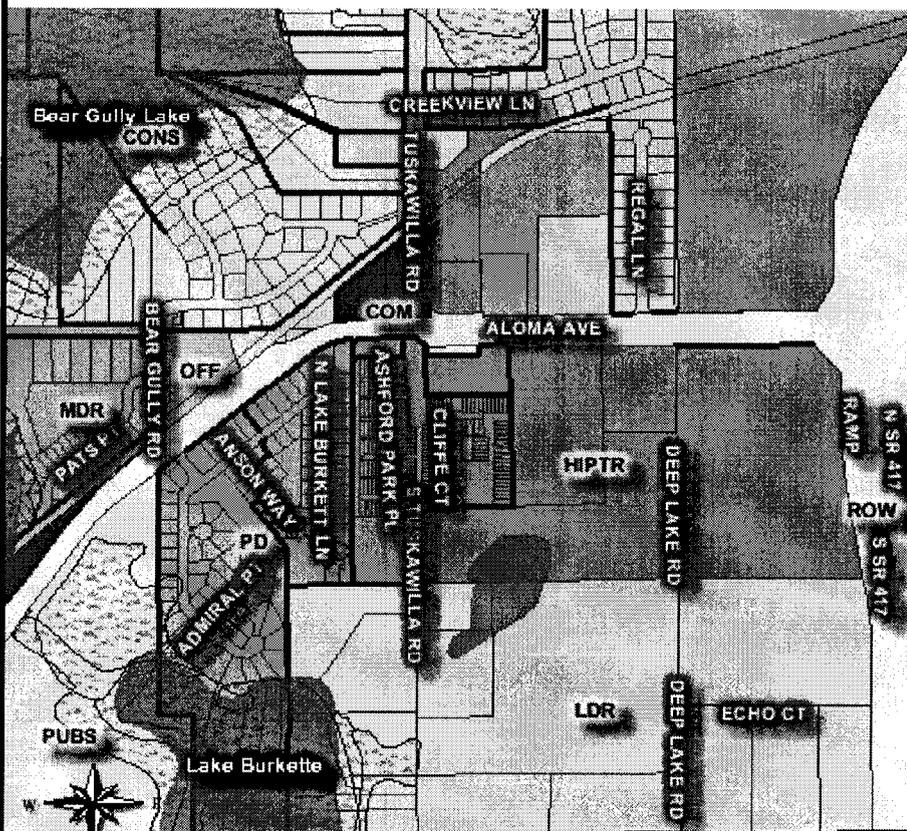
Your Source for Property Information... Quick, Convenient, Accurate

H. W. "Bill" Suber CFA, ASA

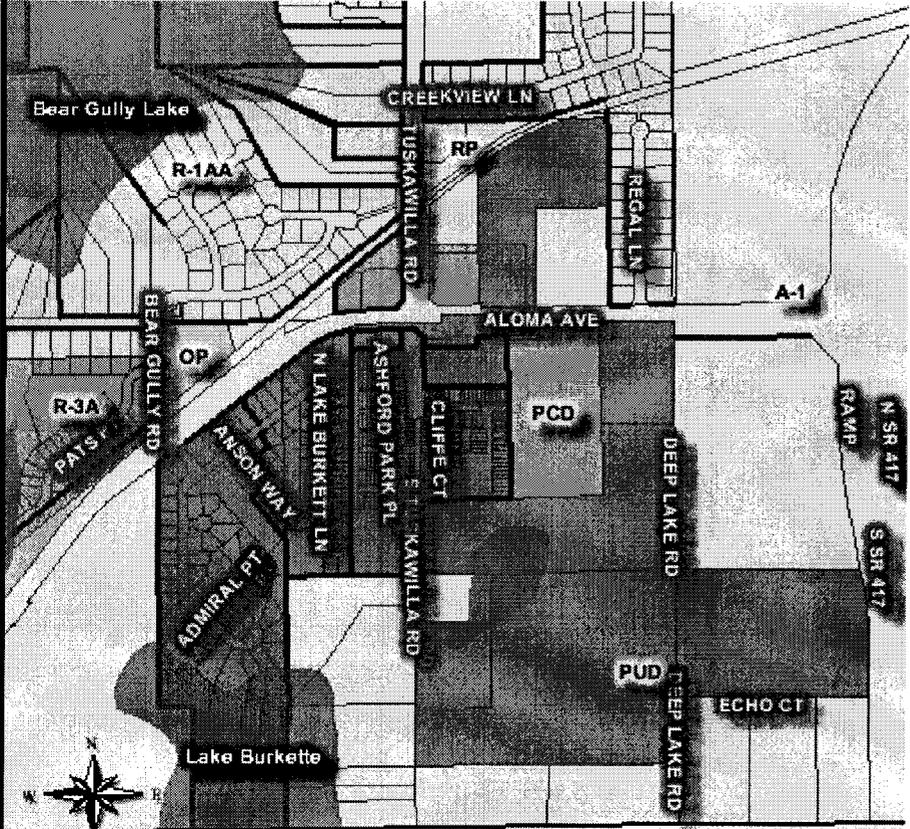


Seminole County
Property Appraiser Services

1101 B. First St.
Sanford Fl. 32771
407-665-7506



Seminole County Property Appraiser - Copyright (C) 2000-2003

<p>Seminole County, Florida</p> <h1>Property Appraiser Services</h1> <p>Your Source for Property Information... Quick, Convenient, Accurate</p>	<p>H. W. "Bill" Suber CFA, ASA</p>
	 <p>Seminole County <i>Property Appraiser Services</i> 1101 B. First St. Sanford FL 32771 407-665-7506</p>
	
<p>Seminole County Property Appraiser - Copyright (C) 2000-2003</p>	

MICAH G. SAVELL

Micah G. Savell
110 S. Courtenay Pkwy.
Merritt Island, Florida 32952

Telephone (321) 452-5300
Fax (321) 452-5255

May 11, 2004

Mr. Mike Hattaway, Chairman
Seminole County Board of Adjustment
1101 East First Street
Sanford, FL 32771-1468

Via Fax : 1-407-665-7385

Via Certified Mail: 7099 3220 0010 4893 2328

Dear Mr. Chairman and Members of the Board:

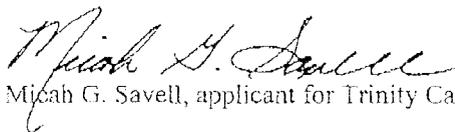
I would like to appeal the decision of the denial for a special exception to establish gasoline pumps as an accessory use of a convenience store at the southeast corner of Tuskawilla Road and S.R. 426.

Our requested use of this property is very legitimate and would serve the community and the public at large. The facility would be well-buffered by a six foot masonry wall and landscaping separating our facility from the multi-family and that this has been the accepted way to transition from single family housing to multi-family, then commercial.

Most of the customers we would serve are already on the current roadways. We are not a destination but one of convenience for our customers stopping to buy milk, drinks, and gas, on their way to and from work.

I respectfully request an opportunity to appear before the county commission to plead my case.

Sincerely,



Micah G. Savell, applicant for Trinity Capital Limited

Cc: Francisco Torregrossa, planner

RICHARD WOODRUFF HOMES, INC.
P. O. BOX 4396
WINTER PARK, FL 32793-4396

Commissioner Grant Maloy
Seminole County Commissioner Dist 1
Seminole County Government
1101 East First Street
Sanford, Florida 32771

Re: Objection to BS 2004-006
Item 12 Public Hearing-Special Exceptions

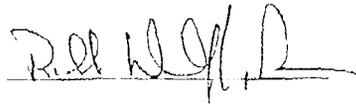
Commissioner Maloy:

I am writing with regard to BS 2004-006 Item 12 under Public Hearings-Special Exceptions which is currently scheduled to be heard on April 26, 2004. I strongly oppose the requested variance as this change in land use, if granted will have an adverse effect on the community and quality of life for surrounding residents.

As a custom home builder, and developer I can appreciate the need for growth and development; however this growth must not only be reasonable, it must be compatible with the surrounding community and should promote the best interests and welfare of the residents. The proposed special exception would permit the petitioners to proceed with the construction of a convenience store and gas station at the corner of Tusawilla Road and West 426. The erection of a third gas station at this corner is unnecessary and will further contribute to congestion, which will negatively impact the community.

In addition, I personally reside less than one mile from the proposed site, and as a homeowner and father of three children, I do not agree with the further commercialization of this intersection.

Thank you for your consideration in this matter.



cc: Matthew West
Planning & Development
1101 E. First St.
Sanford, FL 32771

April 16, 2004

Planning and Zoning Board,

BS2004-006 Item 12 concerns the residents in the immediate area of the variance request which would let another, (the 3rd), gas station be built.

We residents of Antigua Pointe, Bear Creek and Bear Gully Pointe live within one mile of this area. New townhouses are being constructed at Tuscaloosa and Aloma Ave. which will bring more congestion to this area.

We do not want to see a 3rd gas station allowed to build. Some business with low car turnover would be the logical choice.

We would appreciate your voting no on this recommendation.

Sincerely,
Antigua Pointe
Residents

RICHARD WOODRUFF HOMES, INC.
P. O. BOX 4396
WINTER PARK, FL 32793-4396

Commissioner Grant Maloy
Seminole County Commissioner Dist 1
Seminole County Government
1101 East First Street
Sanford, Florida 32771

Re: Objection to BS 2004-006
Item 12 Public Hearing-Special Exceptions

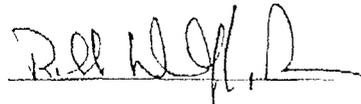
Commissioner Maloy:

I am writing with regard to BS 2004-006 Item 12 under Public Hearings-Special Exceptions which is currently scheduled to be heard on April 26, 2004. I strongly oppose the requested variance as this change in land use, if granted will have an adverse effect on the community and quality of life for surrounding residents.

As a custom home builder, and developer I can appreciate the need for growth and development; however this growth must not only be reasonable, it must be compatible with the surrounding community and should promote the best interests and welfare of the residents. The proposed special exception would permit the petitioners to proceed with the construction of a convenience store and gas station at the corner of Tusawilla Road and West 426. The erection of a third gas station at this corner is unnecessary and will further contribute to congestion, which will negatively impact the community.

In addition, I personally reside less than one mile from the proposed site, and as a homeowner and father of three children, I do not agree with the further commercialization of this intersection.

Thank you for your consideration in this matter.



cc: Matthew West
Planning & Development
1101 E. First St.
Sanford, FL 32771



SEMINOLE COUNTY PLANNING & DEVELOPMENT DEPARTMENT
 PLANNING DIVISION
 1101 EAST FIRST STREET
 SANFORD, FL 32771
 (407) 665-7444 PHONE (407) 665-7385 FAX APPL. NO. BS 2004-006

APPLICATION TO THE SEMINOLE COUNTY BOARD OF ADJUSTMENT

Applications to the Seminole County Board of Adjustment shall include all applicable items listed in the Board of Adjustment Process Checklist. No application will be scheduled for Board of Adjustment consideration until a complete application (including all information requested below) has been received by the Planning & Development Department, Planning Division.

APPLICATION TYPE:

- VARIANCE**
- SPECIAL EXCEPTION** FOR USE OF PROPERTY AS A CONVENIENCE STORE WITH GAS PUMPS, RETAIL SPACE & CAR WASH ON A PUD PARCEL
- MOBILE HOME SPECIAL EXCEPTION**
- EXISTING PROPOSED REPLACEMENT
- MOBILE HOME IS FOR _____
- YEAR OF MOBILE HOME: _____ SIZE OF MOBILE HOME _____
- ANTICIPATED TIME MOBILE HOME IS NEEDED _____
- PLAN TO BUILD YES NO IF SO, WHEN _____
- MEDICAL HARDSHIP YES (LETTER FROM DOCTOR REQUIRED) NO
- APPEAL FROM DECISION OF THE PLANNING MANAGER**

	PROPERTY OWNER	AUTHORIZED AGENT*
NAME	TRINITY CAPITAL LTD	MICAH SAVELL
ADDRESS	TRINITY CAPITAL LTD SEND EVERYTHING TO AGENT	110 So. COURTENAY PKWY HERRIT ISLAND, FL 32952
PHONE 1		WORK - 321-452-5300
PHONE 2		CELL - 321-961-4144
E-MAIL		mgsavell@earthlink.net

PROJECT NAME: FF ALOMA CARWASH

SITE ADDRESS: SE CORNER OF TUSKAWILLA & W SR 426

CURRENT USE OF PROPERTY: VACANT

LEGAL DESCRIPTION: SEE PROP. APPR. SHEET & FULL LEGAL DESC. ATTACHED

SIZE OF PROPERTY: 2.69 acre(s) PARCEL I.D. 30-21-30-513-0000-0018

UTILITIES: WATER WELL SEWER SEPTIC TANK OTHER _____

KNOWN CODE ENFORCEMENT VIOLATIONS NONE

IS PROPERTY ACCESSIBLE FOR INSPECTION YES NO

This request will be considered at the Board of Adjustment regular meeting on APR 26, 2004 6 P.M. (mo/day/yr), in the Board Chambers (Room 1028) at 6:00 p.m. on the first floor of the Seminole County Services Building, located at 1101 East First Street in downtown Sanford, FL.

I hereby affirm that all statements, proposals, and/or plans submitted with or contained within this application are true and correct to the best of my knowledge.

See alternate application

SIGNATURE OF OWNER OR AGENT

DATE

* Proof of owner's authorization is required with submittal if signed by agent.

For projects see master forms & lists for applications for applications.doc

ADDITIONAL VARIANCES

VARIANCE 2:

VARIANCE 3:

VARIANCE 4:

VARIANCE 5:

VARIANCE 6:

VARIANCE 7:

VARIANCE 8:

APPEAL FROM BOA DECISION TO BCC

	PROPERTY OWNER	AUTHORIZED AGENT *
NAME	Trinity Capital LLC	Maisha Small
ADDRESS	3001 Peachtree Street NE Atlanta, GA 30329	110 S. Courtland Blvd Mableton, GA 30126
PHONE 1		404-321-5821
PHONE 2		404-321-4644
E-MAIL		maisha@trinitycapital.com

NATURE OF THE APPEAL _____

BCC PUBLIC HEARING DATE _____

Maisha Small
5/12/04

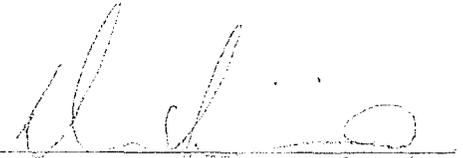
FOR OFFICE USE ONLY

PROCESSING:
 FEE: \$370 COMMISSION DISTRICT 1 FLU/ZONING HIP-TR/PUD
 LOCATION FURTHER DESCRIBED AS ON THE SE CORNER OF INTERSECTION OF TUSKAWILLARD AND W SR 926
 PLANNER VB DATE MAY 5, 2004
 SUFFICIENCY COMMENTS _____

Authorization to Act as Agent

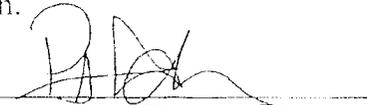
I, A.C. Leerdam, Director of Trinity Capital, Inc., which serves as the General Partner of Trinity Capital Limited., authorize RK Engineering and Associates, Inc. and/or Micah Savell to act as my agent, representing me in submitting the Special Exception to the Board of Adjustment for the project named "Water Whirled Car Wash and Convenience Store, Aloma and Tuskawilla".


A.C. Leerdam


Witness DEAN C. YANILLO

STATE OF FLORIDA
COUNTY OF ORANGE

THE FOREGOING INSTRUMENT was acknowledged before me this 05 day of March 2004, by A.C. Leerdam who is personally known to me and who did not take an oath.


Notary Public Signature

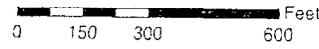
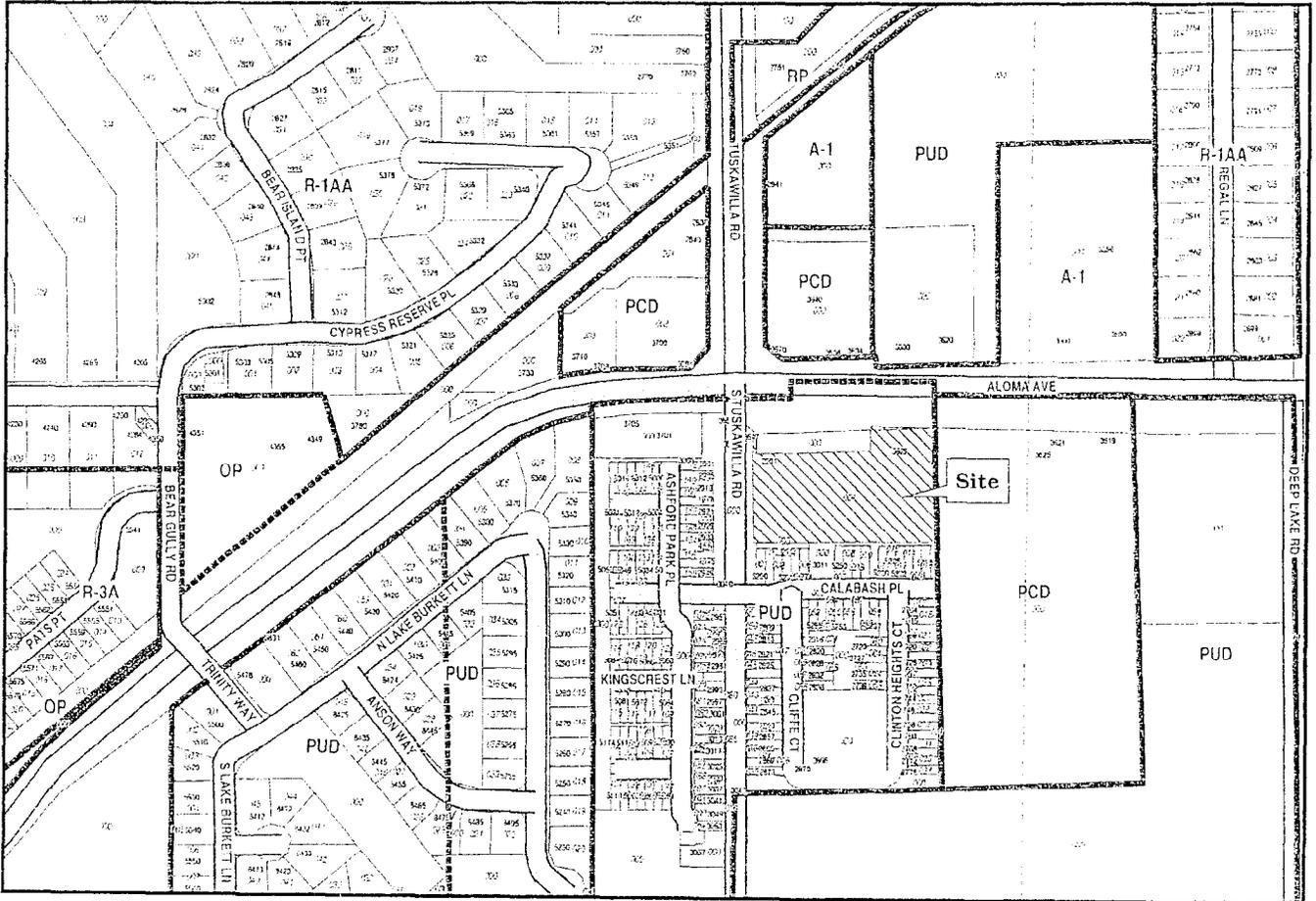
My Commission Expires:

Peter Leerdam
Print Notary Name

PETER LEERDAM
Notary Public, State of Florida
My comm. exp. Mar. 1, 2005
Comm. No. DD 005830



West State Road 426



Parcel: 36-21-30-512-0000-0010
C:\projects\BOA\2004\GISfiles

BS2004-006

PARCEL DETAIL		Back													
															
<p>GENERAL</p> <p>Parcel Id: 36-21-30-513-0000-0010 Tax District: 01-TX DIST 1 - COUNTY</p> <p>Owner: TRINITY CAPITAL LIMITED Exemptions:</p> <p>Own/Addr: C/O EURO CAPITAL PARTNERS</p> <p>Address: 175 LOOKOUT PL STE 201</p> <p>City,State,ZipCode: MAITLAND FL 32751</p> <p>Property Address:</p> <p>Facility Name:</p> <p>Dor: 10-VAC GENERAL-COMMERC</p>		<p>2004 WORKING VALUE SUMMARY</p> <p>Value Method: Market</p> <p>Number of Buildings: 0</p> <p>Depreciated Bldg Value: \$0</p> <p>Depreciated EXFT Value: \$0</p> <p>Land Value (Market): \$197,762</p> <p>Land Value Ag: \$0</p> <p>Just/Market Value: \$197,762</p> <p>Assessed Value (SOH): \$197,762</p> <p>Exempt Value: \$0</p> <p>Taxable Value: \$197,762</p>													
<p>SALES</p> <p>Deed Date Book Page Amount Vac/Imp</p> <p>Find Comparable Sales within this DOR Code</p>		<p>2003 VALUE SUMMARY</p> <p>2003 Tax Bill Amount: \$3,390</p> <p>2003 Taxable Value: \$197,762</p> <p>DOES NOT INCLUDE NON-AD VALOREM ASSESSMENTS</p>													
<p>LAND</p> <table border="1"> <thead> <tr> <th>Land Assess Method</th> <th>Frontage</th> <th>Depth</th> <th>Land Units</th> <th>Unit Price</th> <th>Land Value</th> </tr> </thead> <tbody> <tr> <td>SQUARE FEET</td> <td>0</td> <td>0</td> <td>98,881</td> <td>2.00</td> <td>\$197,762</td> </tr> </tbody> </table>		Land Assess Method	Frontage	Depth	Land Units	Unit Price	Land Value	SQUARE FEET	0	0	98,881	2.00	\$197,762	<p>LEGAL DESCRIPTION PLAT</p> <p>LOT 1 TRINITY CENTER PB 61 PGS 92 & 93</p>	
Land Assess Method	Frontage	Depth	Land Units	Unit Price	Land Value										
SQUARE FEET	0	0	98,881	2.00	\$197,762										
<p>NOTE: Assessed values shown are NOT certified values and therefore are subject to change before being finalized for ad valorem tax purposes.</p> <p>*** If you recently purchased a homesteaded property your next year's property tax will be based on Just/Market value.</p>															



SEMINOLE COUNTY APPROVAL DEVELOPMENT ORDER

On April 26, 2004, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LOT 1 TRINITY CENTER PB 61 PGS 92 & 93

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

FINDINGS OF FACT

Property Owner: TRINITY CAPITAL LIMITED
175 LOOKOUT PLACE, SUITE 201
MAITLAND, FL 32751

Project Name: SE CORNER OF TUSKAWILLA & W SR 426

Requested Development Approval:

SPECIAL EXCEPTION TO ESTABLISH GASOLINE PUMPS AS AN ACCESSORY USE IN THE PUD (PLANNED UNIT DEVELOPMENT DISTRICT) WITH C-1 USES AT LOT 1 TRINITY RETAIL CENTER ON WEST S.R. 426, AS DEPICTED ON THE ATTACHED SITE PLAN.

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: Francisco Torregrosa
1101 East First Street
Sanford, Florida 32771

Order

NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:

(1) The aforementioned application for development approval is **GRANTED**.

(2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.

(3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:

1. HOURS OF OPERATION SHALL BE LIMITED TO 6:00 A.M. TO 12:00 A.M.; TRUCK DELIVERY HOURS OF OPERATION SHALL BE LIMITED TO 7:00 A.M. TO 11:00 P.M.;
2. ELECTRICAL EQUIPMENT FACING SOUTH OF THE BUILDING SHALL BE SCREENED WITH APPROPRIATE LANDSCAPING IF ON THE GROUND OR SCREENED WITH A PARAPET WALL IF ON THE ROOF OF THE BUILDING;
3. NO ILLUMINATED SIGNAGE SHALL BE ALLOWED ALONG THE SOUTHERN FACE OF THE PROPOSED BUILDING; ILLUMINATED SIGNS SHALL BE TURNED OFF WHEN THE BUSINESS IS CLOSED;
4. AUTOMOTIVE MECHANICAL REPAIRS SHALL BE PROHIBITED;
5. THE OUTDOOR STORAGE OF SUPPLIES, MATERIALS OR MERCHANDISE SHALL BE PROHIBITED;
6. THE SITE SHALL BE DEVELOPED IN ACCORDANCE WITH THE APPROVED DEVELOPER'S COMMITMENT AGREEMENT FOR THE TRINITY CENTER PUD;
7. AN ACTIVE SETBACK AND BUFFER SHALL APPLY ALONG THE SOUTH PROPERTY LINE, AS REQUIRED BY THE LAND DEVELOPMENT CODE;
8. PRIOR TO FINAL SITE PLAN APPROVAL, A LISTED SPECIES SURVEY SHALL BE REQUIRED TO ADDRESS THE POTENTIAL OCCURRENCE OF GOPHER TORTOISES ON THE SITE;
9. THE PROPOSED RIGHT IN / RIGHT OUT DRIVEWAY SHALL BE DEPENDENT UPON FDOT APPROVAL; AND
10. THE PROPOSED USE SHALL OTHERWISE COMPLY WITH THE SEMINOLE COUNTY COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE.

(4) This Development Order touches and concerns the *aforescribed* property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole

County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

Done and Ordered on the date first written above.

By: _____
Matthew West
Planning Manager

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____ who is personally known to me or who has produced _____ as identification and who executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2004.

Notary Public, in and for the County and State
Aforementioned

My Commission Expires:

house for this type of layout. He also stated that it would be in the back of his home, and he discussed it with his neighbors and none of them are in objection.

Bruce Hartman, Remodeling Contractor, stated that given the architectural design of the home there is no room in front of the house for the project. He also stated that it couldn't be attached to the home. He further stated that the project would blend with the home.

Mrs. Buchanan made a motion to approve the request.

Mr. Goff seconded the motion.

The motion passed by unanimous consent (5-0).

SPECIAL EXCEPTIONS:

10. **WEST STATE ROAD 426** - Trinity Capitol LTD, applicant; Request to establish a convenience store with gas pumps, retail space and a car wash in the PUD (Planned Unit Development District); Located on the southeast corner of the intersection of Tuskawilla Road and West State Road 426; (BS2004-006).
District 1 - Maloy
Francisco Torregrosa, Planner

Earnest McDonald introduced the location of the application and stated that staff recommended approval of the special exception request with the following conditions:

- Hours of operation shall be limited to 6:00 a.m. to 12:00 a.m.; Truck delivery hours shall be limited to 7:00 a.m. to 11:00 p.m.
- Electrical equipment facing south of the building shall be screened with appropriate landscaping if on the ground or screened with a parapet wall if on the roof of the building.
- No illuminated signage shall be allowed along the southern face of the *proposed building*; illuminated signs shall be turned off when business is closed.
- Automotive mechanical repairs shall be prohibited.
- The outdoor storage of supplies, materials or merchandise shall be prohibited.
- The site shall be developed in accordance with the approved Developer's Commitment Agreement for the Trinity Center PUD.
- An active setback and buffer shall apply along the south property line, as required by the Land Development Code; The dumpster depicted on the proposed site plan shall be removed from the required buffer.

- The proposed Right In / Right Out driveway shall be dependent upon Florida Department of Transportation approval.
- The proposed use shall otherwise comply with the Seminole County Comprehensive Plan and Land Development Code.

Mike Savell stated that of the nine (9) conditions that staff have recommended, they agree with seven (7) of them. He stated that the two (2) that they disagree with are the limitation of hours and the placement of the dumpster. He stated that they placed the dumpster in a position that would be easily accessible by the company that would come in to service it. He also stated that they would like to leave it there. He further stated that the surrounding businesses are open 24 hours and they would like to be consistent with the competition. He also stated that with the hours of restrictions they would not be able to move forward with the project. He lastly stated that he would appreciate the Board consideration in this matter.

Annette Russell stated that she resides in Trinity Bay and that the whole Trinity Bay project has been a heated debate. She also stated that they don't need another gas station in that area. She also stated that the lighting is a big issue and the store remaining open until 11:00 p.m. is too late in her opinion. She lastly stated that she would ask that the Board deny this request.

Wendy Saliga stated that her concern was with the median and the danger issues. She stated that the project had been a disaster from the beginning. She also stated that they would like to see something that was more community based come into the neighborhood. She also stated that the 2003 traffic study that staff referred to does not include the new development that is coming into the community.

Patty Duffy stated that she is a Board Member of the Trinity Bay Homeowners Association, and that they were against the project. She also stated that there were seven (7) gas stations within a two (2) mile radius. She further stated that this project would likely bring more loitering, noise pollution, traffic problems, environmental pollution and more lighting.

Chris Saliga stated that he supported everything that had been previous said. He also stated that they were not against development, but they wanted development that would be comparable. He lastly stated that he would like the Board to consider the security issues.

Mike Savell stated that he understood the neighbors and their concerns and they would try to be good neighbors. He also stated that from his understanding the zoning prior to the development coming in was C-2, which is a more intense zoning. He further stated that there is a tremendous pattern of growth and they would like to have competitive hours of operation.

Mrs. Buchanan made a motion to the deny the special exception request.

Mr. Goff seconded the motion.

The motion passed by unanimous consent (5-0).

11. **2780 MYSTIC LAKE DRIVE** - TBCOM Properties, LLC / John McGinty / Pioneer Land Use Services, applicants; Request for the establishment of a 160 foot tall communication tower in the PUD (Planned Unit Development District); Located south of State Road 417, between Buttermilk Bay Court and Mystic Lake Drive; (BS2004-007).
District 1 - Maloy
Earnest McDonald, Principal Coordinator

This item was continued by the applicant request.

REGULAR ITEMS

12. **1290 BEE LANE** – Michelle Chalstrom, applicant; Request for renewal of a special exception for the continued placement of a recreational vehicle in the A-5 (Rural Zoning Classification District) for a six month period at 1290 Bee Lane; Located on the west side of Bee Lane, approximately 700 feet south of the intersection of East Osceola Road and Bee Lane; (BM2003-019).
District 2 – Morris
Francisco Torregrosa, Planner

Earnest McDonald introduced the location of the application and stated that staff finds that the applicant has not demonstrated substantial progress towards meeting the terms of the recorded Development Order, therefore staff recommended denial of the request.

Michele Chalstrom stated that she has obtained a building permit and that she also has a contract. She further stated that during the last six (6) months she has also gotten a survey, a perk test, and an appraiser on the property has been done by the Leander.

Tim Lee stated that he lives on Bee Lane and that most of the residents are in opposition of this request. He also stated that he has been in opposition of the request from the beginning. He also stated a concern about the junk in their yard and the fact that it is visible from the road. He further stated that they are living off a generator and running a garden hose from the neighbor next door. He lastly stated that if they have a building permit, allow them to build but live elsewhere.

Done and Ordered on the date first written above.

By: Matthew West
Matthew West
Planning Manager

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Matthew West who is personally known to me or who has produced _____ as identification and who executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this 29 day of April, 2004.

Karen Mathews
Notary Public, in and for the County and State
Aforementioned

My Commission Expires:



Karen Mathews
My Commission DD144950
Expires August 26, 2006

SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS
DECISION ON APPEAL

This decision is made by the Board of County Commissioners of Seminole County, Florida, this 12th day of October 2004, in accordance with Section 30.43 of the Land Development Code of Seminole County (LDC), as amended, reversing a decision of the Board of Adjustment to deny a special exception for the establishment of gasoline pumps accessory to a convenience store at the Trinity Retail Center PUD (Planned Unit Development).

A. FINDINGS OF FACT

1. On April 26, 2004, the Board of Adjustment denied a special exception to allow the establishment of gasoline pumps accessory to a convenience store at the Trinity Retail Center PUD, as requested by Micah Savell, on the property further described by the following legal description:

LOT 1 TRINITY CENTER PB 61 PGS 92 & 93

2. The Board of County Commissioners has the authority and responsibility to adjudge this appeal by virtue of Section 30.43(f), LDC.

3. On October 12, 2004, the Board of County Commissioners heard an appeal of this decision.

B. CONCLUSIONS OF LAW

The Board of County Commissioners finds that the subject special exception is in conformance with Section 30.743 of the Land Development Code of Seminole County due to the following:

1. The Board hereby agrees with and adopts the staff recommendations as reflected in the Agenda Memorandum, Item # _____.
2. The subject special exception meets all of the criteria in Section 30.743(a), LDC, for granting special exceptions because:

- a. The subject special exception would allow development that would be consistent with the character and trends of commercial development in the area.
- b. The proposed use is consistent with the Vision 2020 Comprehensive Plan Future Land Use Element, which allows gasoline pumps as an accessory use in the Commercial Future Land Use Classification.

C. DECISION

Based upon the foregoing and having fully considered the application submitted, and the testimony presented at the Board of County Commissioners public hearing on October 12, 2004, it is determined by majority vote of members of the Board of County Commissioners of Seminole County, Florida, that the subject decision of the Board of Adjustment is **REVERSED** and the special exception requested is granted.

DATED this 12th day of October 2004.

Board of County Commissioners
Seminole County, Florida

Daryl G. McLain, Chairman