

# TOWN OF DAVIE

## TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101

**SUBJECT:** Plat, P 6-1-02 University Amoco Replat, Rod Feiner, Esq./ BP Products North America, Inc., 4450 University Drive/Generally located at the northeast corner of University Drive and Orange Drive.

**AFFECTED DISTRICT:** District 2

**TITLE OF AGENDA ITEM:** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A SUBDIVISION PLAT KNOWN AS THE UNIVERSITY AMOCO REPLAT AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SUCH PLAT; AND PROVIDING AN EFFECTIVE DATE

**REPORT IN BRIEF:** The applicant requests approval of the resolution for the proposed subdivision plat to be known as the University Amoco Replat. The variance, V 1-1-03 University Amoco Replat, has been submitted concurrently and must be approved to allow this replat request to occur.

The subject site consists of 43,901.2 square feet or 1.008 acres. The submission has a note restricting the plat to 8,015 square feet of commercial use. Access is provided via two (2) 50' openings, with the opening on the western boundary being restricted to right turns only. The existing opening near the southwest corner of the site has been eliminated. A non-vehicular access line (NVAL) has been provided on the boundaries of the plat adjacent to University Drive and Orange Drive.

Approving the replat does not give the owner any right to redevelop the parcel with a motor fuel pump or any other use that has a distance separation requirement without obtaining a variance. It only gives the owner the right to 8,015 square feet of a commercial use on the site. A declaration of restrictions recognizing this has been presented.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** At the June 25, Planning and Zoning Board meeting, Mrs. Lee made a motion, seconded by Mr. McLaughlin, to approve (Motion carried 5-0).

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Staff finds the subject application complete and suitable for transmittal to the Town Council for further consideration. In addition the following conditions must be met:

1. Sufficient capacity of the regional road network, as determined by Broward County. In the event that sufficient capacity is not met, the plat shall be deemed denied by the Town of Davie.
2. A mylar copy of the plat shall be provided to the Planning and Zoning Division upon recordation.

**Attachment(s):** Plat, Resolution, Declaration of Restrictions, Land Use Map, Zoning and Aerial Map

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A SUBDIVISION PLAT KNOWN AS THE UNIVERSITY AMOCO REPLAT AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SUCH PLAT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the proposed plat of the subdivision to be known as the University Amoco Replat has been approved by the Town Planning and Zoning Board on June 25, 2003,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The plat of the subdivision known as the University Amoco Replat is hereby approved subject to staff's conditions stated on the planning report which is attached hereto as Exhibit "A" and made a part hereof.

SECTION 2. That the owner has voluntarily executed a Declaration of Restrictions on the property described in Section 1 which is included in Exhibit "A", hereto, and made a part hereof.

SECTION 3. The Mayor is authorized to sign such plat on behalf of the Town and the Town Clerk is directed to affix to such plat the Town seal.

SECTION 4. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2003.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

Attest:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2003.

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**TOWN OF DAVIE**  
**Development Services Department**  
**Planning and Zoning Division Staff**  
**Report and Recommendation**

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**Applicant Information**

<b><u>Owner:</u></b>		<b><u>Agent:</u></b>	
<b>Name:</b>	BP Products North America, Inc.	<b>Name:</b>	Rod Feiner, Esq.
<b>Address:</b>	2475 Northwinds Parkway, Suite 400	<b>Address:</b>	644 SE 5 Avenue
<b>City:</b>	Alpharetta, GA 30004	<b>City:</b>	Fort Lauderdale, FL 33301
<b>Phone:</b>	(770)576-3216	<b>Phone:</b>	(954)761-3636

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**Background Information**

**Application History:** No deferrals have been requested.

**Application Request:** Approval of the resolution for the proposed subdivision plat to be known as the University Amoco Replat.

**Address/Location:** 4450 University Drive/Generally located at the northeast corner of University Drive and Orange Drive.

**Future Land Use Plan Designation:** Commercial

**Zoning:** B-2, Community Business District

**Existing Uses:** Amoco Gas Station and a parcel with two (2) vacant concrete block structures and a metal shed

**Proposed Use:** 8,015 square feet of commercial use

**Total Parcel Size:** 1.008 acres (43,901.2 square feet)

**Motor Fuel Pump Parcel:** 0.675 acres (29,402.8 square feet)

**B-2 Parcel:** 0.33 acres (14,498.4 square feet)

**Surrounding Uses:**

**North:** Firehouse Grill  
**South:** Orange Drive  
**East:** Single family dwelling, Retention pond  
**West:** University Drive

**Surrounding Land Use Plan Designation:**

Commercial  
Commercial  
Residential (10 DU/AC)  
Transportation

**Surrounding Zoning:**

**North:** B-1, Neighborhood Business District  
**South:** B-2, Community Business District  
**East:** R-5 Low Medium Density Dwelling District  
**West:** T, Transportation District

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**Zoning History**

**Previous Requests on same property:**

The site plan, Amoco Oil Company, was approved on December 21, 1977.

The plat, P 7-1-89 University Amoco, was approved on August 16, 1989.

The site plan, SP 1-2-03 BP University Drive, was submitted for review on January 21, 2003, and Development Review Committee Comments were issued on May 13, 2003.

The variance, V 1-1-03 University Amoco Replat, has been submitted concurrently and must be approved to allow this replat request to occur.

It is noted that the current construction activity occurring on the site is for the removal of the self-service car wash area and is being done with building permits.

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**Application Details**

The applicant's submission indicates the following:

1. The subject site consists of approximately 43,901.2 square feet or 1.008 acres.
  2. A note restricting the plat to 8,015 square feet of commercial use.
  3. Access is provided via two (2) 50' openings, with the opening on the western boundary being restricted to right turns only. The existing opening near the southwest corner of the site has been eliminated. A non-vehicular access line (NVAL) has been provided on the boundaries of the plat adjacent to University Drive and Orange Drive.
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**Applicable Codes and Ordinances**

Article XII of the Land Development Code, Subdivisions and Site Plans.

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## Comprehensive Plan Considerations

**Planning Area:** The subject property falls within Planning Area 8. This Planning Area is the heart of Davie and is the most diverse, characterized by older, small-scale commercial development, older single-family residential neighborhoods, and newer, large-scale multi-family residential developments that serve the rapidly growing South Florida Education Center (SFEC). It is bounded on the north by Nova Drive, south by Orange Drive, east by Florida's Turnpike, and west by University Drive. The planning area encompasses the downtown Davie Business District, where western theme architecture is required, the Davie Town Hall and Rodeo Arena, two large mobile home communities, and industrial land.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 99.

**Applicable Goals, Objectives & Policies:** *Future Land Use Plan, Objective 5: Consistency of Development with Comprehensive Plan, Policy 5-2:* The (re)zoning, (re)plating, and site planning of land shall be in compliance with the density ranges shown on the Davie Future Land Use Plan map and the applicable Future Land Use Designation provisions as contained in the Permitted Use portion of the Implementation Section.

*Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-1:* Lands designated for non-residential use shall be located in a manner which facilitates development, but does not adversely impact existing and designated residential areas.

*Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-6:* Town land development regulations shall address incompatible land uses through requirements such as buffering and setbacks.

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## Staff Analysis/Findings of Fact

The proposed plat is consistent with the Comprehensive Plan and Land Development Code as it relates to access, location, size and use. Approving the replat does not give the owner any right to redevelop the parcel with a motor fuel pump or any other use that has a distance separation requirement without obtaining a variance. It only gives the owner the right to 8,015 square feet of a commercial use on the site. A declaration of restrictions recognizing this has been presented.

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## Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration. In addition, the following conditions must be met:

1. Sufficient capacity of the regional road network, as determined by Broward County. In the event that sufficient capacity is not met, the plat shall be deemed denied by the Town of Davie.

2. A mylar copy of the plat shall be provided to the Planning and Zoning Division upon recordation.
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### **Planning and Zoning Board Recommendation**

At the June 25, Planning and Zoning Board meeting, Mrs. Lee made a motion, seconded by Mr. McLaughlin, to approve (Motion carried 5-0).

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### **Town Council Action**

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### **Exhibits**

1. Plat
2. Declaration of Restrictions
3. Future Land Use Map
4. Zoning and Aerial Map

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_



Prepared by and return to:

Name: Rod A. Feiner, Esquire  
Address: Coker & Feiner  
644 Southeast 5<sup>th</sup> Avenue  
Fort Lauderdale, FL 33301-3104  
Telephone: (954) 761-3636

**DECLARATION OF RESTRICTIVE COVENANTS**

THIS DECLARATION OF RESTRICTIVE COVENANTS is dated this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by BP PRODUCTS NORTH AMERICA, INC., a Maryland corporation, ("Owner"), in favor of THE TOWN OF DAVIE, a municipal corporation of the State of Florida ("Town").

**WITNESSETH :**

WHEREAS, Owner holds fee simple title to a parcel of land in the Town consisting of the following: Parcel "A", University Amoco Plat, according to the Plat thereof as recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Broward County, Florida, as well as lands adjacent to the University Amoco Plat and

WHEREAS, Owner has replatted the property encompassed within the University Amoco Plat in order to add additional land to the Plat, the replat being known as the University Amoco Replat, according to the Plat thereof as recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Broward County, Florida, and

WHEREAS, the University Amoco Replat contains only one lot, and

WHEREAS, there currently exists a motor fuel pump, car wash and convenience store on the property encompassed within the University Amoco Plat and now the University Amoco Replat, and

WHEREAS, Section 12-34(Y)(2) of the Town Code currently requires that there be a minimum 250 foot distance separation between a residential use and a motor fuel pump station, such measurement to be made from property line to property line, and

WHEREAS, the motor fuel pump use which is currently existing on the University Amoco Replat is a legal non-conforming use because it was legally permitted and is not now compliant with Section 12-34(Y)(2) of the Town Code, and