

# TOWN OF DAVIE

## TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

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

**SUBJECT:** Quasi Judicial Hearing: Variance  
V 4-3-02 Ghasem Khavanin/John M. Hicks, 13301 SW 36 Court  
Generally located on the north side of SW 36 Court, approximately 700 feet east of SW 136 Avenue, within the Hicks Estates subdivision.

**AFFECTED DISTRICT:** District 4

**TITLE OF AGENDA ITEM:**

V 4-3-02 Khavanin/Hicks, 13301 SW 36 Court (A-1)

**REPORT IN BRIEF:**

The petitioner has requested to reduce the subject site's minimum rear yard setback from 40' to 26' in order to construct a detached garage in a location that allows a stand of mature live oak trees to remain undisturbed.

The subject site is 3.66 acres (159,604.06 square feet), vacant, and zoned A-1, Agricultural District. The Code requires 35' front yards, 25' side yards, and 40' minimum rear yards in this district. A stand of mature live oak trees and pond occupy approximately 2 acres of the site. The trees and pond are located within the buildable area of the site. Relocation and/or mitigation of trees while permissible, is not necessarily possible because of their maturity, or the ideal solution, as the preservation of natural features is desirable.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** At the June 12, 2002, meeting of the Planning and Zoning Board, Mr. Waitkus made a motion, seconded by Ms. Turin to approve with the following stipulations 1) that a "4-Hour" fire rating dry wall be used for walls and ceiling; and 2) for noise prevention, that there be an eight inch separation between the dry wall and concrete block insulation (Motion carried 5-0).

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Staff recommends that the subject report, on the variance petition, be reviewed and discussed by Town Council so that a final decision may be rendered.

**Attachment(s):** Justification letter, Survey, Site plan, Future Land Use Map, Zoning and Aerial Map

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

**APPLICANT INFORMATION**

**Owner:**

**Name:** John M. Hicks  
**Address:** 2750 SW 121 Avenue  
**City:** Davie, FL 33330  
**Phone:** (954)370-1088

**Agent:**

**Name:** Ghasem Khavanin  
**Address:** 11900 SW 11 Court  
**City:** Davie, FL 33325  
**Phone:** (954)931-3401

**BACKGROUND INFORMATION**

**Date of Notification:** June 5, 2002    **Number of Notifications:** 4

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

**Application Request:** Variance **FROM:** Section 12-81A of the Land Development Code which requires 40 foot minimum rear yards in the A-1, Agricultural District; **TO:** reduce the minimum rear yard to 26 feet. This request has been made in order to construct a detached garage in a location that allows mature live oak trees to remain undisturbed.

**Address/Location:** 13301 SW 36 Court/Generally located on the north side of SW 36 Court, approximately 700 feet east of SW 136 Avenue, within the Hicks Estates subdivision.

**Future Land Use Plan Designation:** Residential (1 DU/AC)

**Zoning:** A-1, Agricultural District

**Existing Use:** Vacant

**Proposed Use:** Single family dwelling with detached garage

**Parcel Size:** 3.66 acres (159,604.06 square feet)

	<b><u>Surrounding Uses:</u></b>	<b><u>Surrounding Land Use Plan</u></b>
<b><u>Designation:</u></b>		
<b>North:</b>	Flamingo ESL Site	Residential (1 DU/AC)
<b>South:</b>	Single family dwelling site	Residential (1 DU/AC)
<b>East:</b>	Flamingo ESL Site	Conservation

**West:** Single family dwelling site Residential (1 DU/AC)

**Surrounding Zoning:**

**North:** RS, Recreation/Open Space District

**South:** A-1, Agricultural District

**East:** RS, Recreation/Open Space District

**West:** A-1, Agricultural District

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**ZONING HISTORY**

**Related Zoning History:** None

**Previous Request on same property:**

The plat, P 3-1-00 Hicks Estates, was approved on September 6, 2000.

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**APPLICATION DETAILS**

The petitioner has requested to reduce the subject site's minimum rear yard setback from 40' to 26' in order to construct a detached garage in a location that allows a stand of mature live oak trees to remain undisturbed.

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**Applicable Codes and Ordinances**

Section 12-81A of the Land Development Code requires minimum: 35,000 square foot lot area, 125' lot frontage, 35' front yards, 25' side yards, and 40' minimum rear yards in the A-1, Agricultural District.

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**Comprehensive Plan Considerations**

**Planning Area:** The subject property falls within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 113.

**Applicable Goals, Objectives and Policies:** *Future Land Use Policy 17-7:* Adopted land development regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living environments.

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**Staff Analysis**

The subject site is 3.66 acres (159,604.06 square feet), vacant, and zoned A-1, Agricultural District. The Code requires 35' front yards, 25' side yards, and 40' minimum rear yards in

this district. A stand of mature live oak trees and pond occupy approximately 2 acres of the site. The trees and pond are located within the buildable area of the site. Relocation and/or mitigation of trees while permissible, is not necessarily possible because of their maturity, or the ideal solution, as the preservation of natural features is desirable.

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## **Findings of Fact**

### **Variances:**

#### **Section 12-309(B)(1):**

**The following findings of facts apply to the variance request.**

(a) There are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same district, and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variance is sought, and that alleged hardship is self-created by any person having an interest in the property.

*The subject site has special circumstances because it contains a stand of mature live oak trees, and is bound by the Flamingo ESL Site on the north and east. The conditions are unique and do not apply generally to land in the district. These circumstances, however, are not such that the strict application of the district setbacks would deprive reasonable use of the land. The permitted use of the subject site is a single family dwelling, and this can be achieved without the granting of a variance. Furthermore, the size of the detached garage could be reduced in size to meet the district setbacks.*

(b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is not the minimum variance that will accomplish this purpose.

*The applicant can achieve reasonable use of the land without a variance, and as such the variance is not the minimum needed.*

(c) Granting of the requested variance will not be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

*The intent of the 40' rear yard setback required by the Land Development Code is for the consistent placement of structures and to maintain openness provided by the minimum separation between structures, within the A-1, Agricultural District. The intent of the Code is also to allow freedom in design to achieve the permitted use of the land, and this can be accomplished without a variance. Granting of the request will not be injurious to the neighborhood or detrimental to the surrounding area as the area impacted the most by the request is the Flamingo ESL Site.*

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## **Staff Recommendation**

Staff recommends that the subject report, on the variance petition, be reviewed and discussed by the Planning and Zoning Board and Town Council so that a recommendation and final decision may be rendered.

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### **Planning & Zoning Board Recommendation**

At the June 12, 2002, meeting of the Planning and Zoning Board, Mr. Waitkus made a motion, seconded by Ms. Turin to approve with the following stipulations 1) that a "4-Hour" fire rating dry wall be used for walls and ceiling; and 2) for noise prevention, that there be an eight inch separation between the dry wall and concrete block insulation (Motion carried 5-0).

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### **Exhibits**

1. Justification letter
2. Survey
3. Site plan
4. Future Land Use Map
5. Zoning and Aerial Map

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

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

**GHASEM KHAVANIN P.E.**  
**11900 S.W. 11 CT.**  
**DAVIE FLA. 33325**  
**PHONE (954) 931-3401**

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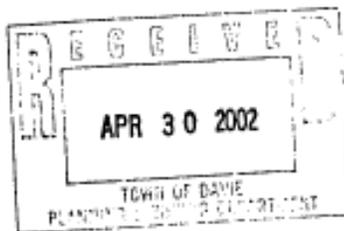
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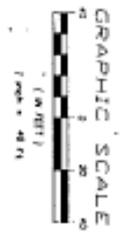
THIS IS AN ATTEMPT TO SAVE THREE (3) EXISTING LIVE OAKS TREES LOCATED AT LOT 5 OF HICKS ESTATES PLAT. THESE TREES ARE OVER 100 YEARS OLD, TWO OF THEM HAVE 8' DIAMETER AND THIRD ONE IS 10' IN DIAMETER.

THIS VARIANCE IS NECESSARY FOR REASONABLE USE OF THE LAND TO SAVE THESE TREES AND IT IS A MINIMUM VARIANCE THAT WILL ACCOMPLISH THIS PURPOSE.

SECTION 12-81 TABLE 12-81A REQUIRED REAR SET BACK TO BE 40' WHERE WE HAVE A SET BACK OF 26.00' ALONG EASTERN PROPERTY LINE.

EXISTING PROPERTY LOCATED ON EAST AND NORTH OWN BY BROWARD COUNTY AND BEEN DESEGNETED TO BE USE AS OPEN SPACE / RECREATION PARK AND MAXIMUM OF 14 IN REAR WILL NOT HAVE NEGATIVE IMPACT TO THE NEIGHBORHOOD OR OTHERWISE DETERMENTAL TO THE PUBLIC WELFARE.

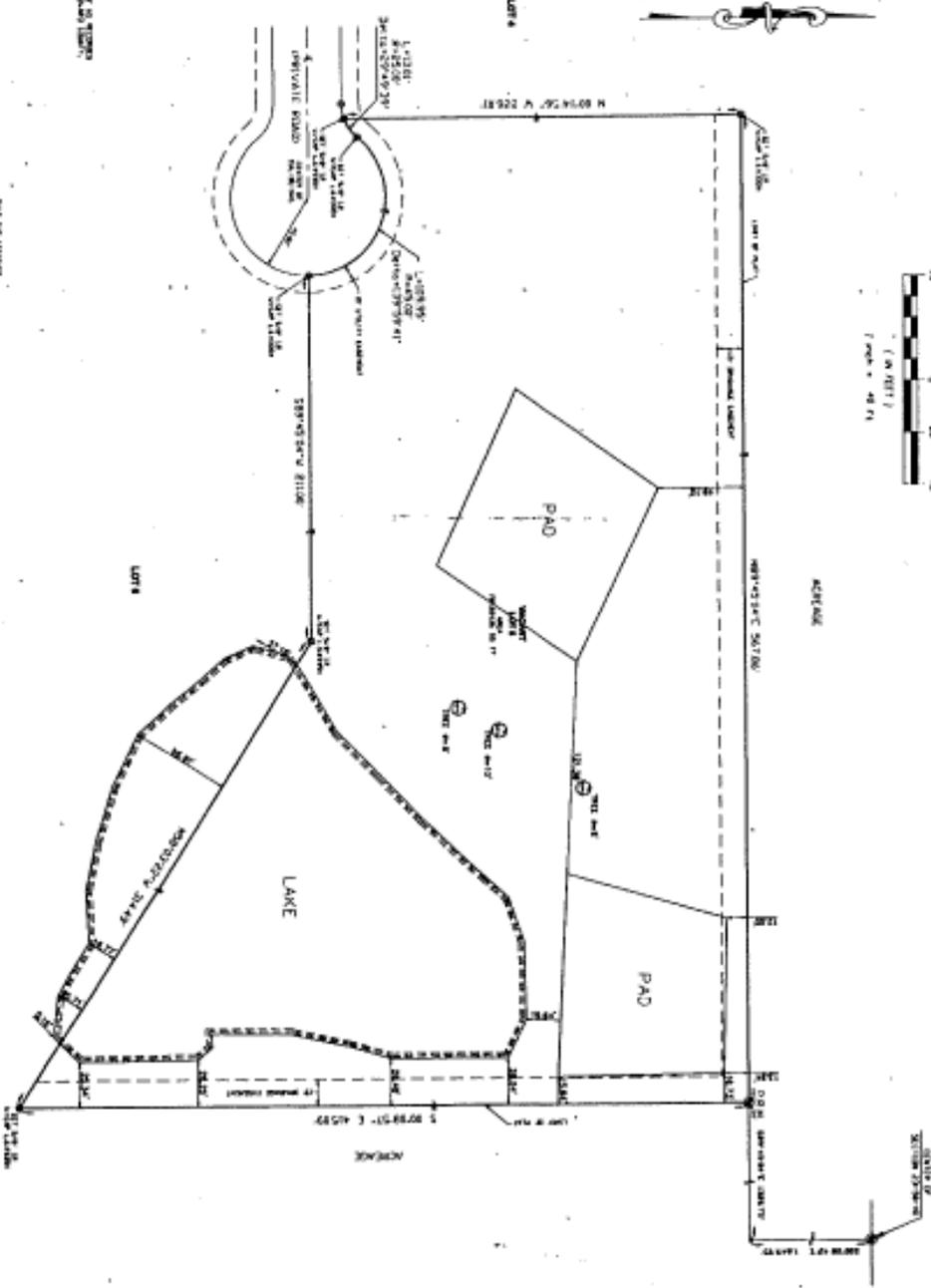




LEGEND

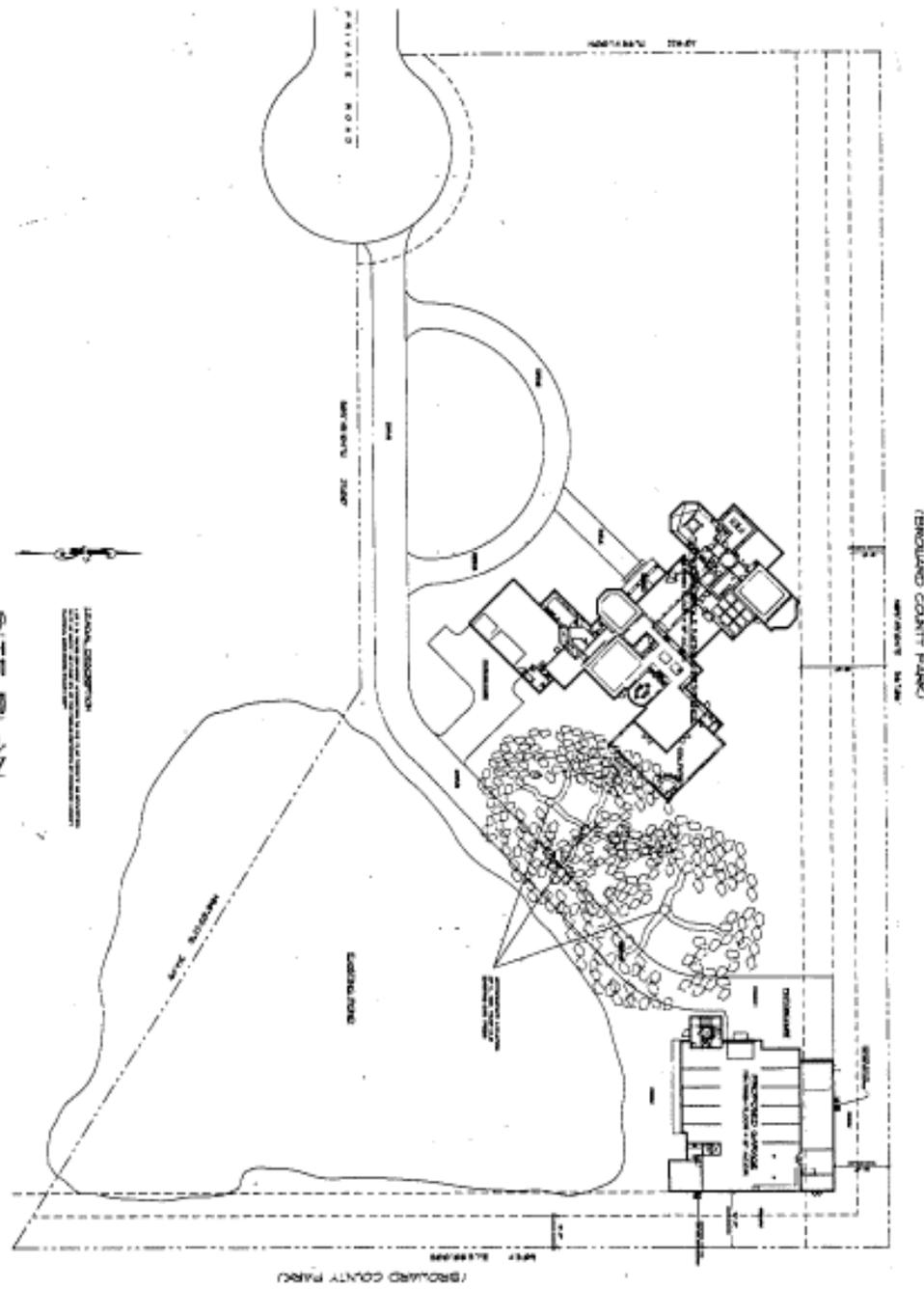
---	Property Line
---	Survey Line
---	Right of Way Line
---	Water
---	Shaded Area
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**GENERAL NOTES:**  
 1. THIS SURVEY IS FOR THE PURPOSE OF DIVIDING THE LAND SHOWN INTO LOTS.  
 2. THE BOUNDARY LINES ARE BASED ON THE SURVEY DATA AND FIELD MEASUREMENTS.  
 3. THE AREA OF EACH LOT IS SHOWN IN THE ADJACENT TABLE.  
 4. THE SURVEY WAS CONDUCTED ON [DATE].  
 5. THE SURVEYOR IS NOT RESPONSIBLE FOR THE ACCURACY OF THE DATA PROVIDED BY THE CLIENT.



APPROVED AND CORRECTED  
 JOHN M. HICKS  
 BOUNDARY SURVEY  
 WITH LOCATION OF EXISTING STRUCTURES

LOT 1	1.0000
LOT 2	1.0000
LOT 3	1.0000
LOT 4	1.0000
LOT 5	1.0000
LOT 6	1.0000
LOT 7	1.0000
LOT 8	1.0000
LOT 9	1.0000
LOT 10	1.0000
LOT 11	1.0000
LOT 12	1.0000
LOT 13	1.0000
LOT 14	1.0000
LOT 15	1.0000
LOT 16	1.0000
LOT 17	1.0000
LOT 18	1.0000
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LOT 46	1.0000
LOT 47	1.0000
LOT 48	1.0000
LOT 49	1.0000
LOT 50	1.0000



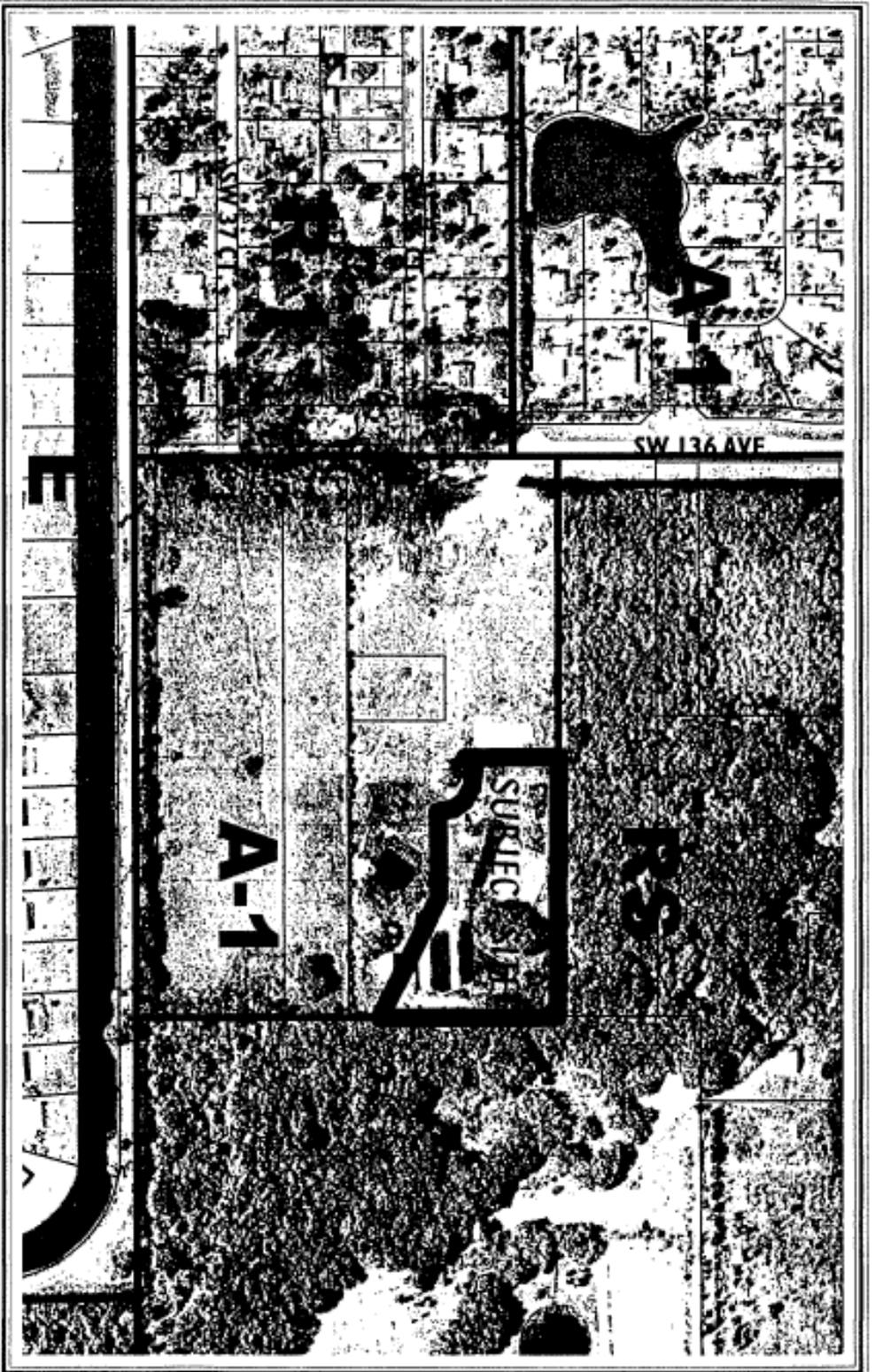
RANDALL STOFFT ARCHITECTS  
 1000 N. W. 10th Ave., Suite 100  
 Ft. Lauderdale, FL 33304  
 Phone: (954) 562-1111  
 Fax: (954) 562-1112  
 www.randallstofft.com

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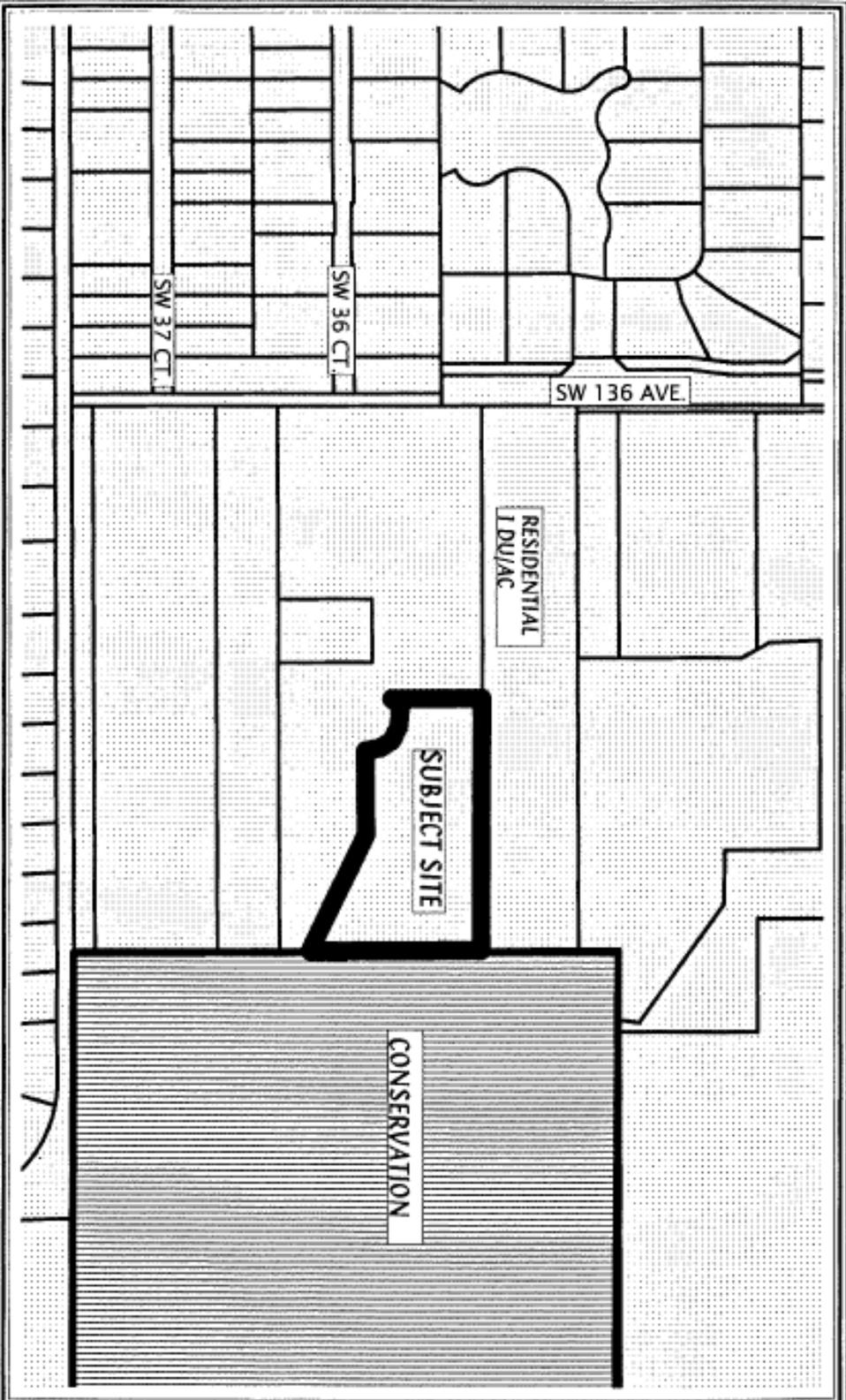
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**HICKS RESIDENCE**  
 LOT 5, HICKS ESTATES  
 DAVIDE, FLORIDA

Revisions	By	Date



 <p>300 0 300 Feet</p>		<p><b>PETITION NUMBER: V-4-3-02</b></p> <p>Zoning and Aerial Map Date: Flown: January, 2001 Scale: 1" = 300' Planning &amp; Zoning Division - GIS Prepared 5/14/02</p>
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**PETTITON NUMBER: V 4-3-02**  
**FUTURE LAND USE MAP**  
 Date: Flown: January, 2001  
 Scale: 1" = 300'  
 Planning & Zoning Division - GIS  
 Prepared 5/14/02