

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

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

SUBJECT: Variance, V 8-1-02 Will Hammond, 14681 SW 29 Place/Generally located on the north side of SW 29 Place, 500 feet east of SW 148 Avenue.

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: V 8-1-02 Will Hammond, 14681 SW 29 Place (A-1)

REPORT IN BRIEF: The petitioner has requested a variance, from Section 12-81(A) of the Land Development Code, which requires a minimum front setback of 35 feet as measured from the property line, to reduce the minimum front setback to 25 feet. Granting of the request will allow the subject site to be developed with one (1) single family dwelling. A variance has been requested because of unnecessary and inaccurate information being recorded on the plat for the subject site (Benson's Acres) regarding road right-of-way and setbacks.

PREVIOUS ACTIONS: None

CONCURRENCES: At the September 11, 2002, Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Mr. Waitkus to approve (Motion carried 5-0).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Justification, Site Plan, Survey, Plat, Land Use Map, Zoning and Aerial Map

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

APPLICANT INFORMATION

Owner/Agent:

Name: Will Hammond
Address: 4000 SW 82 Terrace
City: Davie, FL 33328
Phone: (954)931-4807

BACKGROUND INFORMATION

Date of Notification: September 4, 2002 **Number of Notifications:** 17

Application History: No deferrals have been requested.

Application Request: Variance **FROM:** Section 12-81(A) of the Land Development Code which requires a minimum front setback of 35 feet; **TO:** reduce the minimum front setback to 25 feet.

Purpose of Request: To allow the subject site to be developed with one (1) single family dwelling. A variance has been requested because of unnecessary and inaccurate information being recorded on the plat for the subject site (Benson's Acres).

Address/Location: 14681 SW 29 Place/generally located on the north side of SW 29 Place, 500 feet east of SW 148 Avenue.

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

Zoning: A-1, Agricultural District

Existing Use: Vacant

Proposed Use: One (1) single family dwelling

Parcel Size: 0.96 acres (41,835 square feet)

	<u>Surrounding Uses:</u>	<u>Surrounding Land Use Plan Designation:</u>
North:	Vacant (Charleston Oaks)	Residential (1 DU/AC)
South:	Single-family residential (Crotty-Apolinario Acres)	Residential (1 DU/AC)
East:	Vacant (Benson's Acres)	Residential (1 DU/AC)
West:	Vacant (Benson's Acres)	Residential (1 DU/AC)
 <u>Surrounding Zoning:</u>		
North:	A-1, Agricultural District	
South:	A-1, Agricultural District	
East:	A-1, Agricultural District	
West:	A-1, Agricultural District	

ZONING HISTORY

Related Zoning History: The adjacent plat to the south, P 10-4-98 Crotty-Apolinario Acres, was approved on May 19, 1999.

Previous Requests on same property: The plat, P 7-13-98 Benson's Acres, was approved on February 7, 1990, and subsequently recorded in the official records of Broward County in Plat Book 150, Page 27.

A Grant of Cross Easement was recorded in the Broward County Official Record Book 32,162, Page 1,121. This action granted a private road and drainage easement of 50' between Benson's Acres and Crotty-Apolinario Acres, and provides for construction of SW 29 Place, with half of the roadway to be located on the southern and northern boundaries of the respective plats.

APPLICATION DETAILS

The petitioner has requested a variance, from Section 12-81(A) of the Land Development Code, which requires a minimum front setback of 35 feet as measured from the property line, to reduce the minimum front setback to 25 feet. Granting of the variance will allow the subject site to be developed with one (1) single family dwelling.

Applicable Codes and Ordinances

Section 12-309 of the Land Development Code, review for variances.

Section 12-366.1 of the Land Development Code, Submission Requirements for Plats.

Section 12-81A of the Land Development Code, Conventional Single-Family Development Standards, A-1, Agricultural District, requires minimum: lot area of 35,000 square feet, frontage of 125 feet, front setback of 35 feet, side setback of 25 feet, rear setback of 40 feet.

Section 12-503 of the Land Development Code, Definitions, Setback, A line on a lot, generally parallel to a lot line or road right-of-way line, located a sufficient distance there from to provide the minimum yards required by this Ordinance. The setback limits the area in which buildings are permitted subject to all applicable provisions of this Ordinance. (All development must occur within the setbacks including cantilevered structures and projecting surfaces.). Setbacks are to be measured from the property line.

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 & Policies: *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, 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.

Staff Analysis

Below are the issues surrounding the development of the subject site which apply to the requested variance.

- Benson's Acres Plat indicates a 35' building setback line from a 35' road easement for SW 29 Place.
- Indication of a building setback line is not a platting requirement for the Town of Davie or Broward County. Broward County considers a building setback line shown on a plat a municipal issue, and will not process a delegation request to amend the plat.
- The Land Development Code states that building setback lines are to be measured from the property line.
- A Grant of Easement was entered into by the owners of the Benson's Acres Plat and the owners of the property adjacent to the south, known as the Crotty-Apolinario Acres Plat. The Grant of Easement calls for the construction of SW 29 Place, with a 50' right of way, and shows 25' along the southern boundary of the Benson's Acres Plat being combined with 25' along the northern boundary of the Crotty-Apolinario Acres Plat.
- Since 35' was dedicated by the Benson's Acres Plat; the additional 25' from Crotty-Apolinario Acres Plat makes a total of 60' of roadway easements for SW 29 Place.

- The right-of-way cross section only needs to be 50', as such, the additional north 10' being provided by Benson's Acres is not required, and its elimination, as a requirement of the plat, would allow the property to be developed without a variance
- Since SW 29 Place was moved 10' south; the setback from the road easement is 25', and due to the 35' setback stated on the plat a 10' variance is need.

Due to the fact that upon actual construction of the two (2) developments, a 50' right-of-way is all that was required for access. The ability for staff to approve the new setback line of 25' is hampered by the recorded 35' setback line on the plat. This request, if approved, will allow staff to approve the construction of a single family home that is 50' from the center line of SW 29 Place, which is the property line, and is 39' from the north boundary of SW 29 Place.

Findings of Fact

Rezonings:

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 such that the strict application of the provisions of this chapter would deprive the application of the reasonable use of such land or building for which the variances are sought; and that alleged hardship is not self-created by any person having an interest in the property.

The recording of a building setback line on the plat creates a special circumstance; lands throughout the Town do not have setback lines show on their plats; requiring compliance with the plat would deprive the applicant of the ability to construct a reasonable dwelling on the subject site; and the applicant did not create the problematic building setback line recorded on the plat.

- (b) The granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

Granting of the variance is necessary and is the minimum needed to construct a reasonable dwelling on the subject site.

- (c) Granting of the requested variances will 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 Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the front setback to be reduced by 10' so that the dwelling is technically located 25' from the platted road easement will not be detrimental to the neighborhood.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

At the September 11, 2002, Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Mr. Waitkus to approve (Motion carried 5-0).

Exhibits

1. Justification
2. Site Plan
3. Survey
4. Plat
5. Land Use Map
6. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

Town of Davie
6591 Orange Drive
Davie, Fl. 33314-3399

Re: Lot 2 of the Benson's acres
14681 SW 29 Place

Dear Members of the Town Council
& Planning & Zoning Board,

We, Will & Leslie Hammond, respectfully request in writing a variance regarding the above referenced property and ask that you consider the following:

Years ago when the properties were divided and platted the Benson's acres were divided as wide but shallow lots. The plat shows a 35' cross section for a future road.

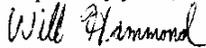
Upon purchase of the property I, Will Hammond, took my plat to the Town Zoning office to inquire about set back requirements. I was told there is a 40' rear setback and a 35' front setback from the property lines. Based on this information we had our house plans done in accordance with the setback requirements and actually exceeded the front set back of 35' by having our house 50' from the front property line.

The road was installed recently with a 50' cross section instead of the original 35' cross section shown on the plat making the build able area even less. The result is 1/2 of the 22' wide road is on our property coupled with a 14' deep right of way on each side of the street. The road is a dead end street which will eventually service only ten homes.

The 50' set back of our existing house plans now is in conflict with the set back requirements for a road right of way. The zoning boundaries are illogical in relation to the existing conditions of the property depriving us of reasonable use of the build able area. However, precedent for this same circumstance has already been established. The subdivisions of Parma Estates (this road services 20 homes with only a 40' cross section) and Regina Lynn Ranches show the same size lots as ours with homes approximately 35' from the edge of the pavement.

Based on these existing subdivisions we ask for relief from the code to allow our home to be 25' from the road right of way which would exceed the 35' set back from the property line required by law.

Respectfully yours,



Will & Leslie Hammond

AUG 7 2002

Town of Davie
6591 Orange Drive
Davie, FL 33314-3399

Dear Town Administrator:

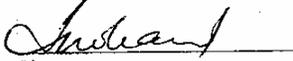
I/We understand that the owners of Lot 1 & 2 of the Benson's Acres, Mr. & Mrs. Will Hammond, are requesting a special permit involving a front set back modification.

I/We further understand that consenting to these changes will not adversely affect living conditions in the neighborhood, surrounding property values, or the future development of surrounding properties.

Sincerely,


Sign

ALFREDO AGUIAR 7/25/02
Print Name & Date


Sign

SEYED MOHAMED 7-25-02
Print Name & Date


Sign

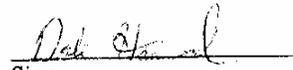
Burt Apolinario - 7/25/02
Print Name & Date


Sign

Sean Millman
Print Name & Date

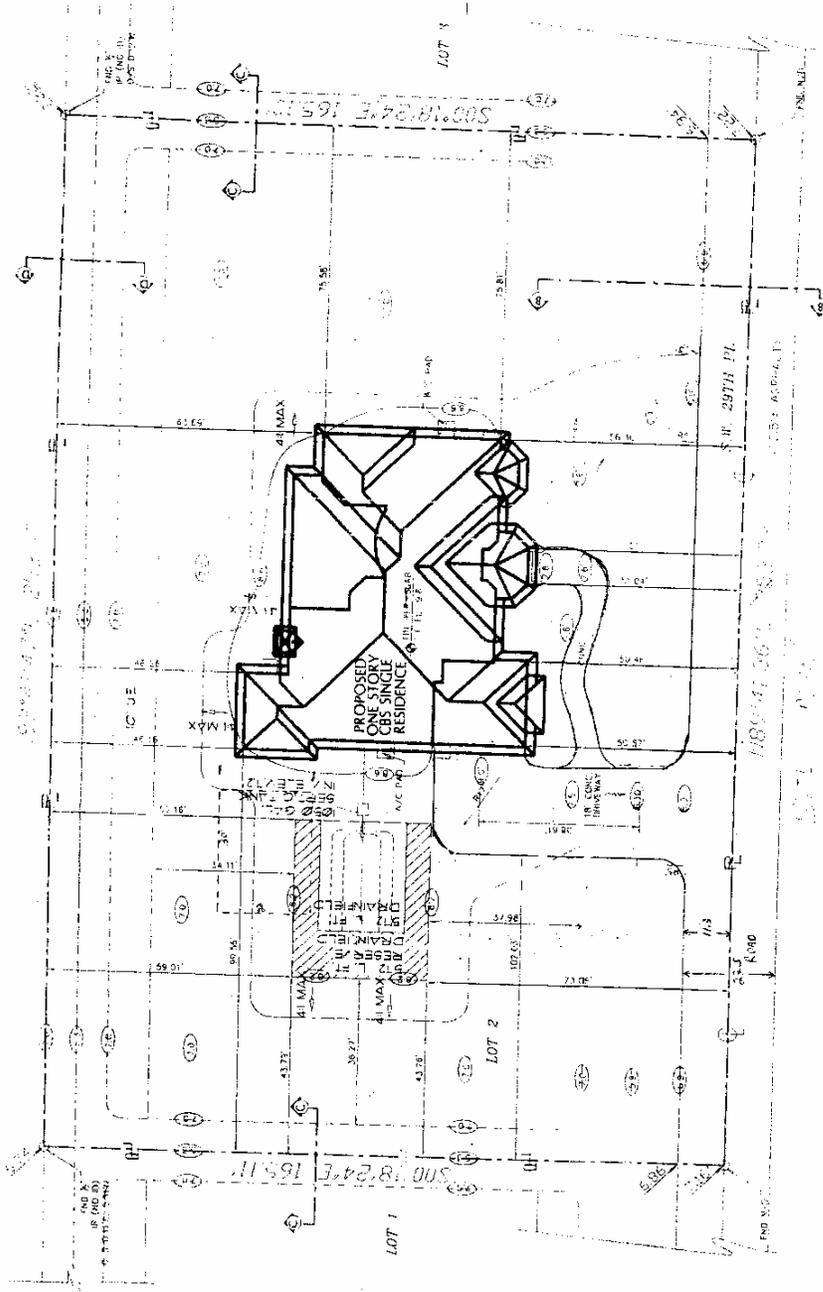

Sign

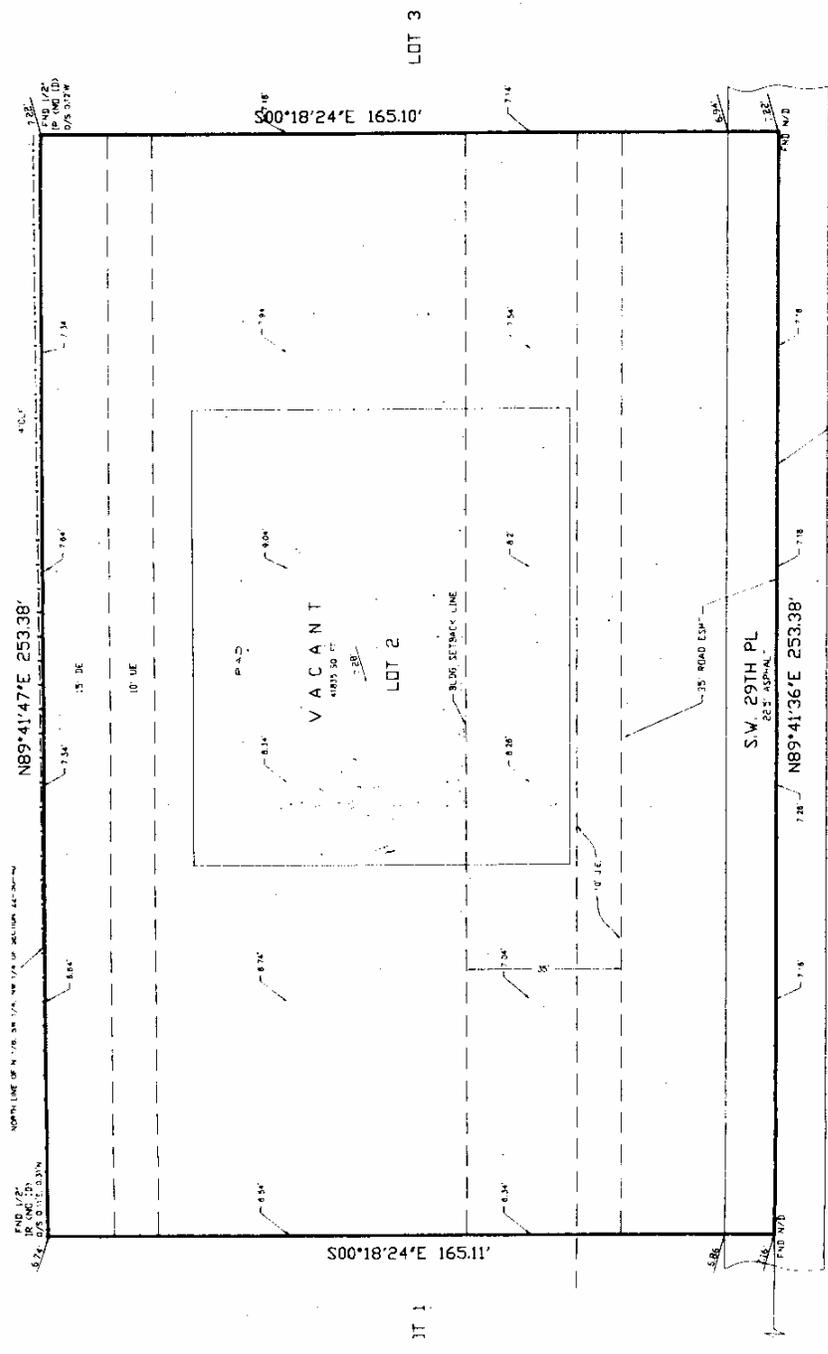
Keith Millman
Print Name & Date


Sign

Dale Johnson 7/23/02
Print Name & Date

AUG 7 2002

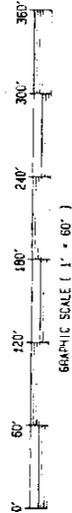




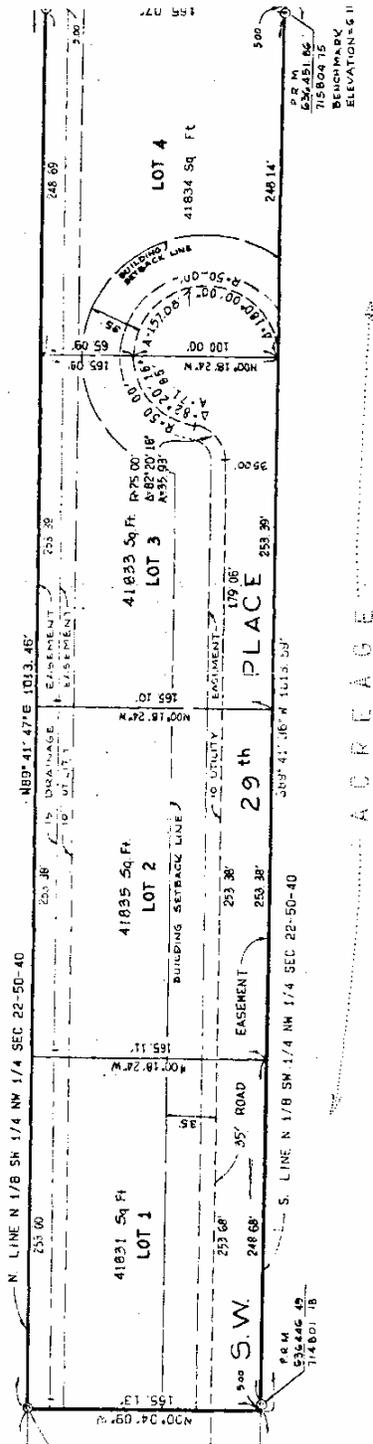
" BENSON'S ACRES "

A RESUBDIVISION OF A PORTION OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 22, TOWNSHIP 50 SOUTH, RANGE 40 EAST TOWN OF DAVIE, BROWARD COUNTY, FLORIDA

71



ACREAGE

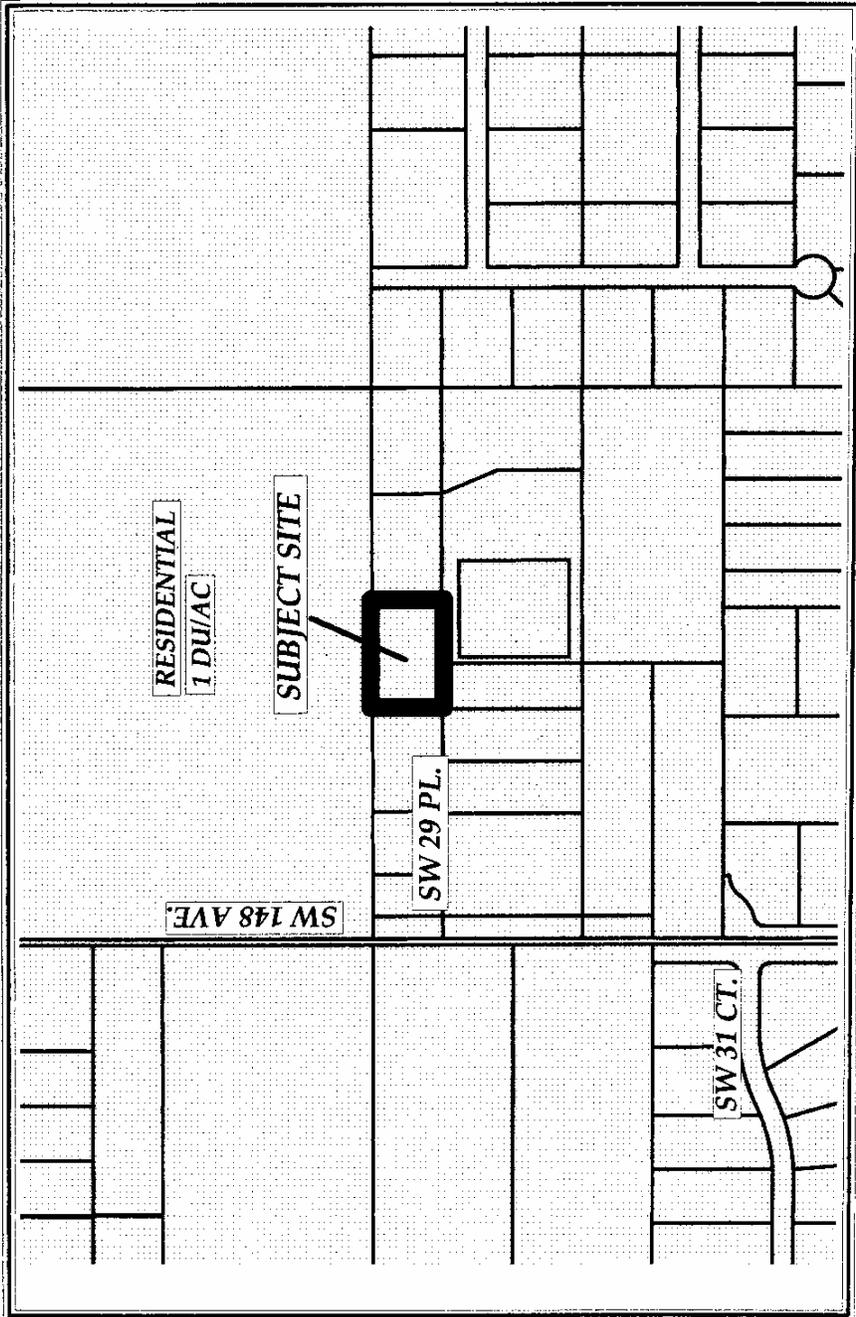


DESCRIPTION:

The North one-eighth (N 1/8) of the Southwest one-quarter (SW 1/4) of the Northwest one-quarter (NW 1/4) of Section 22, Township 50 South, Range 40 East, Broward County, Florida, less the West 305.00 feet thereof. Said lands situate, lying and being in the Town of Davie, Broward County, Florida and containing 167,232 square feet (3.841 acres), more or less.

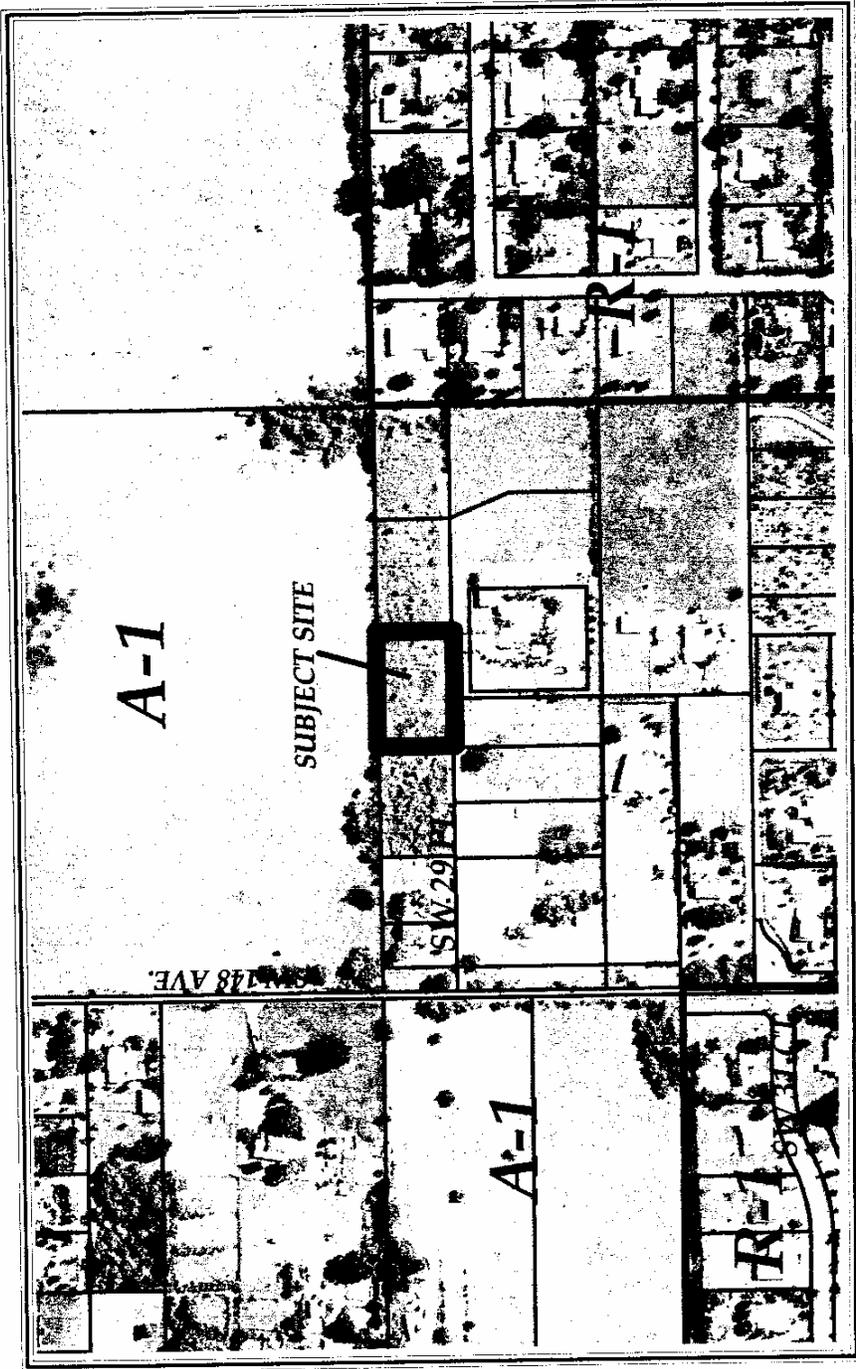
BROWARD COUNTY PLAN
This is to certify that subject to its keys

This Plat complies

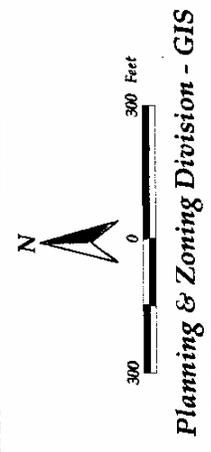


Variance
 V 8-1-02
 Existing Future Land Use Map

Planning & Zoning Division - GIS



Variance
 V 8-1-02
 Subject Site and Aerial Map
 Date Flown: 12/31/01



Planning & Zoning Division - GIS