

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director/(954) 797-1101
Prepared by: Annie Feng, Planner II

SUBJECT: Quasi Judicial Hearing: Variance
V 4-1-04, GL Homes of Davie Associates II, Ltd., 3683 Churchill Downs Drive, generally located on the west side of Churchill Downs Drive, approximately 800 feet north of Laurel Road.

AFFECTED DISTRICT: District 3

TITLE OF AGENDA ITEM:

The petitioner requests a variance **FROM:** Section 12-82(A) of the Land Development Code that was applicable at the time of the site plan approval for Long Lake Estates on December 19, 2001, which requires a minimum side setback of 25 feet for the single-family residences in the AG, Agricultural district; **TO:** reduce the side setbacks for a model home to 21.9 feet on both sides.

REPORT IN BRIEF:

The subject site (Lot 128) is a vacant lot of 34,944 square feet located on the "model row" within Long Lake Ranches Plat One. The minimum required lot width is 125 feet and the minimum required side setback is 25 feet for the AG, Agricultural District when the site plan (SP 11-2-01) for Long Lake Estates was approved on December 19, 2001, prior to adoption of the Rural Lifestyle Regulations. The typical lot width for the "model row" is 128 feet. The applicant desires to construct one of the approved models (Model 6) on Lot 128. Model 6 has a maximum width of 84.2 feet and is the largest model. The side setbacks will be 21.9 feet due to the 128 feet lot width and 84.2 feet wide building. As such, the applicant is requesting a variance to reduce the side setback from 25 feet to 21.9 feet. This variance request is only for Lot 128 and not applicable to other lots within the development.

The existing model home on Lot 129, immediately north to the subject lot, has a 31.5-foot side setback from the property line. The distance between the proposed model home on Lot 128 and the existing model on Lot 129 will be 53.4 feet, exceeding the minimum required distance of 50 feet by 3.4 feet. The applicant is proposing another model home on Lot 127, south to the subject lot, 28.1 feet from the north property line to provide the minimum 50 feet distance between the two homes. To minimize the impact of the requested variance, the applicant agrees to deed restrict Lot 127 to provide a setback of 28.1 feet for any future structures. In addition, the variance is subject to the following condition:

- This variance only applies on this model home (Model 6) on Lot 128. The applicant will not request a variance to reduce the setbacks to build the same model on other regular lots.

PREVIOUS ACTIONS: None

CONCURRENCES: At the June 9, 2004 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Ms. Lee, to approve with the stipulation that \$5,000 would be voluntarily contributed to the Open Space Program (Motion carried 3-2 with Vice-Chair Turin and Mr. McLaughlin being opposed). Mr. McLaughlin felt that a smaller unit should be put on that lot in order to comply with the Code. Vice-Chair Turin agreed that larger units should be placed on larger lots, that the situation was self-created, and at minimum, it did not serve the same public purpose as a fire station.

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 variance is subject to the following conditions:

1. Prior to the issuance of the building permit, record a deed restriction to provide a 28.1-foot north side setback for any future structures on Lot 127.
2. This variance only applies on this model home (Model 6) on Lot 128. The applicant will not request a variance to reduce the setbacks to build the same model on other regular lots.

Attachment(s): Planning Report, Justification letter, Letter of dedication for open space funds, Land use map, Subject site map, Aerial, and property survey.

Application #: V 4-1-04 G.L. Homes
Exhibit "A"

Revisions: 6/21/04
Original Report Date: 5/18/04

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

Application Information

Owner/Petitioner:

Name: G.L. Homes of Davie II, Ltd.
Address: 1401 University Dr.
City: Coral Springs, FL 33071
Phone: (954) 753-1730

Background Information

Date of Notification: June 2, 2004 **Number of Notifications:** 36 (1,000 feet notification)

Planning and Zoning Board Recommendation: At the June 9, 2004 Planning and Zoning Board meeting, the Board made a motion to approve the variance request (Motion carried 3-2 with Vice-Chair Turin and Mr. McLaughlin being opposed).

Application History: None

Application Request: Variance **FROM:** Section 12-82(A) of the Land Development Code that was applicable at the time of the site plan approval for Long Lake Estates on December 19, 2001, which requires a minimum side setback of 25 feet for the single-family residences in the AG, Agricultural district; **TO:** reduce the side setbacks for a model home on Lot 128 to 21.9 feet on both sides of the proposed Model 6.

Address/Location: 3683 Churchill Downs Drive, Generally located on the west side of Churchill Downs Drive, approximately 800 feet north of Laurel Road.

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

Zoning: A-1 (Agricultural District)

Existing Use: Vacant

Proposed Use: Single Family Home (model home)

Parcel Size: 34,944 square feet (.802 acres)

	<u>Surrounding Uses:</u>	<u>Surrounding Land Use Plan Designation:</u>
North:	Single Family Home	Residential (1DU/AC)
South:	Vacant	Residential (1DU/AC)
East:	Single Family Home	Residential (1DU/AC)
West:	Lake	Residential (1 DU/AC)

Surrounding Zoning:

North:	AG, Agricultural District
South:	AG, Agricultural District
East:	AG, Agricultural District
West:	AG, Agricultural District

Zoning History

Previous Request on same property:

On September 6, 2000, the Town Council approved the boundary plat, Long Lake Estates II Plat, by Resolution No. R 2000-210. The plat includes Parcel A, B, and C, and is restricted to 454 single-family homes.

On December 19, 2001, the Town Council approved the site plan (SP 11-2-01) for Long Lake Ranches.

On June 5, 2002, The Town Council approved the subdivision plat, Long Lake I.

Application Details

The subject site (Lot 128) is a vacant lot of 34,944 square feet located on the “model row” within Long Lake Ranches Plat One. The minimum required width is 125 feet and the minimum required side setback is 25 feet for the AG, Agricultural District when the site plan (SP 11-2-01) for Long Lake Estates was approved on December 19, 2001. The typical lot width for the “model row” is 128 feet. The applicant desires to construct one of the approved models (Model 6) on Lot 128. Model 6 has a maximum width of 84.2 feet; therefore, the side setbacks left on both sides will be 21.9 feet. As such, the applicant is requesting a variance to reduce the side setback from 25 feet to 21.9 feet.

Applicable Codes and Ordinances

1. Section 12-82(A) of the Land Development Code that was applicable at the time of the site plan approval for Long Lake Estates on December 19, 2001, which requires a minimum side setback of 25 feet for the single-family residences in the AG, Agricultural district.
2. Section 12-287 of the Land Development Code provides the Exemptions of Development Standards for the AG district: Existing legal lots specifically delineated in a plat or

approved site plan of record shall be bound by the minimum lot size and lot frontage requirements existing at the time they were specifically delineated.

3. Section 12-309, Review criteria for variances.

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 100.

Applicable Goals, Objectives and Policies:

Objective 1: No later than December 1, 1989, the Town shall adopt and implement land development regulations, including subdivision regulations, that will encourage and facilitate residential development in accordance with the Future Land Use Plan, and in an aesthetically and environmentally sound manner.

Policy 1-1: The Town shall investigate and implement, as appropriate, innovative land development regulations that afford flexibility in developing residential communities while maintaining adequate standards necessary to promote the health, safety and welfare of Town residents.

Staff Analysis

The existing model home on Lot 129, immediately north to the subject lot, has a 31.5-foot side setback from the property line. The distance between the proposed model home on Lot 128 and the existing model on Lot 129 is 53.4 feet, exceeding the minimum required distance of 50 feet by 3.4 feet. The applicant is proposing another model home on Lot 127, south to the subject lot, 28.1 feet from the north property line to ensure the minimum 50 feet distance between the two homes. To minimize the impact of the requested variance, the applicant agrees to record a deed restriction to provide a 28.1-foot north side setback for future structures on Lot 127. In addition, the variance is subject to the following condition:

- This variance only applies on this model home (Model 6) on Lot 128. The applicant will not request a variance to reduce the setbacks to build the same model on other regular lots.

Finding of Facts

Variances:

Section 12-309(B)(1):

The following findings of facts apply to the variance request.

- (a) There is not a special circumstance or condition applying to the land or building for which the variance is sought, which circumstance or condition is peculiar to such land or building and does not apply generally to land or building in the same district;

The subject site is 128 feet wide and 34,944 square feet in area. It is one of the typical lots, approved on the Long Lake Estates site plan. It meets the minimum required lot width of 125 feet for AG zoning district at the time of approval. The design of the home on the lot is not a special circumstance, as the developer designed both the site plan and the model.

and that said circumstance or condition may not be such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought;

The applicant desires to construct the largest model (Model 6) on this lot. Model 6 has a maximum width of 84.2 feet and was designed for use on the large lots in Long Lake Estates. The reasonable use of the subject site will not be deprived because the applicant can build a smaller model on the lot without a variance or reduce the width of Model 6.

and the alleged hardship may be self-created by persons having an interest in the property.

It is the applicant's intention to construct the largest model on this lot in order to keep all the models on the "model row". The alleged hardship may be considered self-created.

- (b) 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.

Granting of the variance is not necessary for the reasonable use of the land since the applicant can build a smaller model on the lot without a variance or narrow the proposed model. However, in order to keep all of the approved model homes on the same "model rows", the requested variance is the minimum variance to accomplish this purpose.

- (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.

Although the side setbacks are reduced, the minimum distance between the proposed model home and the existing model home on the lot to the north (Lot 129) is 53.4 feet, exceeding the minimum required distance of 50 feet by 3.4 feet. In addition, the applicant agrees to record a deed restriction to provide a 28.1-foot side setback for the future main structures on the lot to the south (Lot 127) to ensure the minimum 50-foot distance between these two model homes. The impact of the requested variance is minimized since the 50-foot distance has maintained. Granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition, since these models are not sold at this time, upon construction, future residents will be aware of the restrictions on these lots.

Staff Recommendation

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

3. Prior to the issuance of the building permit, record a deed restriction to provide a 28.1-foot north side setback for any future structures on Lot 127.
4. This variance only applies on this model home (Model 6) on Lot 128. The applicant will not request a variance to reduce the setbacks to build the same model on other regular lots.

Planning & Zoning Board Recommendation

At the June 9, 2004 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Ms. Lee, to approve with the stipulation that \$5,000 would be voluntarily contributed to the Open Space Program (Motion carried 3-2 with Vice-Chair Turin and Mr. McLaughlin being opposed). Mr. McLaughlin felt that a smaller unit should be put on that lot in order to comply with the Code. Vice-Chair Turin agreed that larger units should be placed on larger lots, that the situation was self-created, and at minimum, it did not serve the purpose of a fire station.

Town Council Actions

Exhibits

1. Justification letter
2. Letter of dedication for open space funds
3. Site Survey
4. Subject Site Map
5. Land Use Map and Aerial

Prepared by: _____

Reviewed by: _____

**VARIANCE JUSTIFICATION FOR
Lot 128 "Long Lake Ranches Plat One"**

REQUESTED VARIANCE: Lot 128 of "Long Lake Ranches Plat One" as recorded in Plat Book 171, Pages 151 thru 157 of the Public Records of Broward County, Florida lies within the "AG" Zoning District. The "AG" zoning district has provisions which require residential lots within that zoning district to maintain a 25 foot side yard setback. This variance request is to allow the side yard setback on both sides of Lot 128 to be 21.9 feet instead of 25 feet. This requires a 3.1 foot variance (12%) from the code requirement, however, the minimum distance between the houses on either side of Lot 128 (Lot 127 on the south and Lot 129 on the north) shall meet or exceed the combined total distance required of 50.00 feet. In addition, Lot 128 was previously approved as part of the "model row" (SP-11-2-00) on December 19, 2001.

The following is our justification for 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 applicant of the reasonable use of such land or building for which the variance is sought, and that alleged hardship is not self-created by any person having an interest in the property;

The special circumstance for which this variance is being requested is that Lot 128 is adjacent to the existing "model row" located within Parcel A of Long Lake Ranches Plat One. It is our intent to construct one of our bigger models (Model 6) on this lot and expand our "model row". Model 6 will then be offered for sale within "Long Lake Ranches Plat Three", also known as Long Lake Ranches West. This model has a maximum width of 84.2 feet. Because Lot 128 is 128 feet in width and the side yard setback on either side is 25.00 feet as required by code. There is a shortage of 3.1 feet on both sides of the lot for a total shortage of 6.2 feet. However, the existing model home situated on Lot 127, directly to the north of Lot 128 has provided a side yard setback of 31.5 feet. This existing setback exceeds said 25.00 foot setback requirement by 6.5 feet. The total distance between the proposed model (Model 6) on Lot 128 and the existing model on Lot 129 exceeds 50.00 feet by 3.4 feet. The proposed house to be constructed to the south on lot 127 will provide an additional 3.1 feet on it's northern side to accommodate the total separation distance between houses to exceed the required 50.00 feet by the same as on the north (3.4 feet). By applying strict application of this provision of the code, the developer could not construct this particular model (Model 6) within the existing model row. The intent of the code is

being met by the combined setback requirement between houses including the house to the north and the proposed unit to the south. The developer / owner has agreed to place a self created restriction on the proposed house to the south by requiring an additional 3.1 feet to the current side yard setback requirement of 25.00 feet to meet the total distance separation of 50.00 feet between houses. In addition the owner / developer has agreed to place a restriction on Lot 129 against any additional building construction within the south side yard setback.

- (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;

The granting of this variance is necessary in order to provide the developer / owner with the maximum use of the existing model row. The intent to expand the existing model row to include lot 128 and construct Model 6 on said lot is to offer Model 6 for sale within Parcel C or "Long Lake Ranches West". Model 6 has a maximum width of 84.2 feet and will only be offered for sale on lots with a minimum width of 135 feet or greater. Therefore, no other sideyard setback variances for this issue within this development will be required.

- (c) That granting the variance 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 granting of this variance will be in harmony with the general purpose of this provision in the code as the overall separation requirement between houses will be maintained on this lot and throughout the entire development of the project. This variance request is the minimum amount necessary to meet the demands of the placement of Model 6 on Lot 128. The reduction in the side yard setback from 25.00 feet to 21.9 feet is a 12% variance from the code requirement. The granting of this variance will not adversely impact the overall project nor the adjacent property owners or the public in any way.

The requested variance does not affect traffic, streets, fire safety, public safety, and will not impair property values in any way.



June 16, 2004

Town of Davie
Attn: Marcie Nolan
6591 Orange Drive
Davie, FL 33314-3399

RE: Long Lake Ranches
Lot 128 side yard setback

Dear Marcie:

Please accept this letter as a supplement to variance application No. V-4-1-04 for Lot 128 of "Long Lake Ranches Plat One". The amount of impact that this variance includes is 1227 square feet. In an effort to offset the aesthetic value of this request, we have agreed to a monetary contribution to the Town of Davies' Tree Fund in the amount of \$5000.

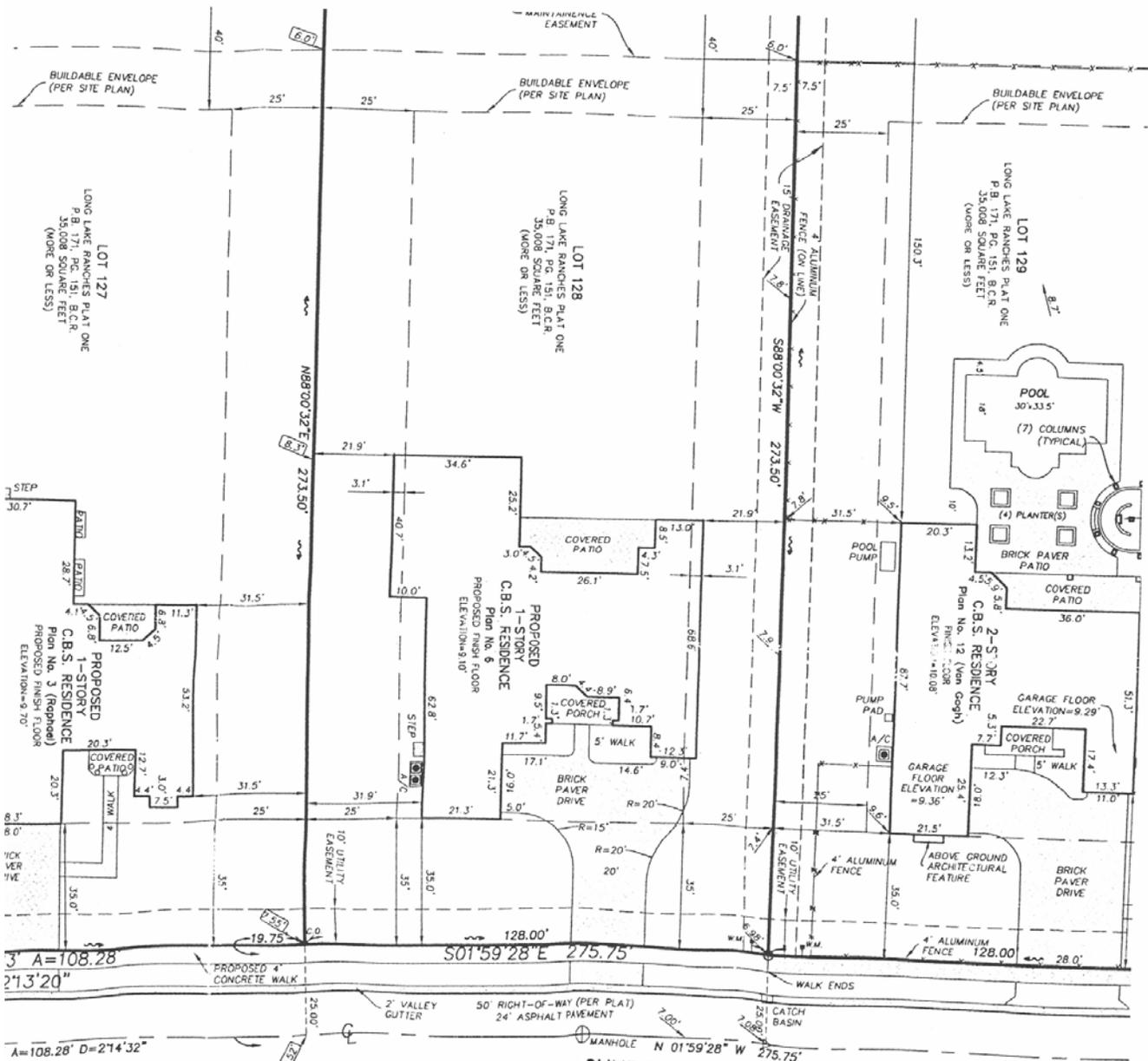
We have agreed to make said contribution within 15 days of Town Council Approval.

Thank you for your considerations in this matter. Please call me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Gladys DiGirolamo".
Gladys DiGirolamo
G.L. Homes

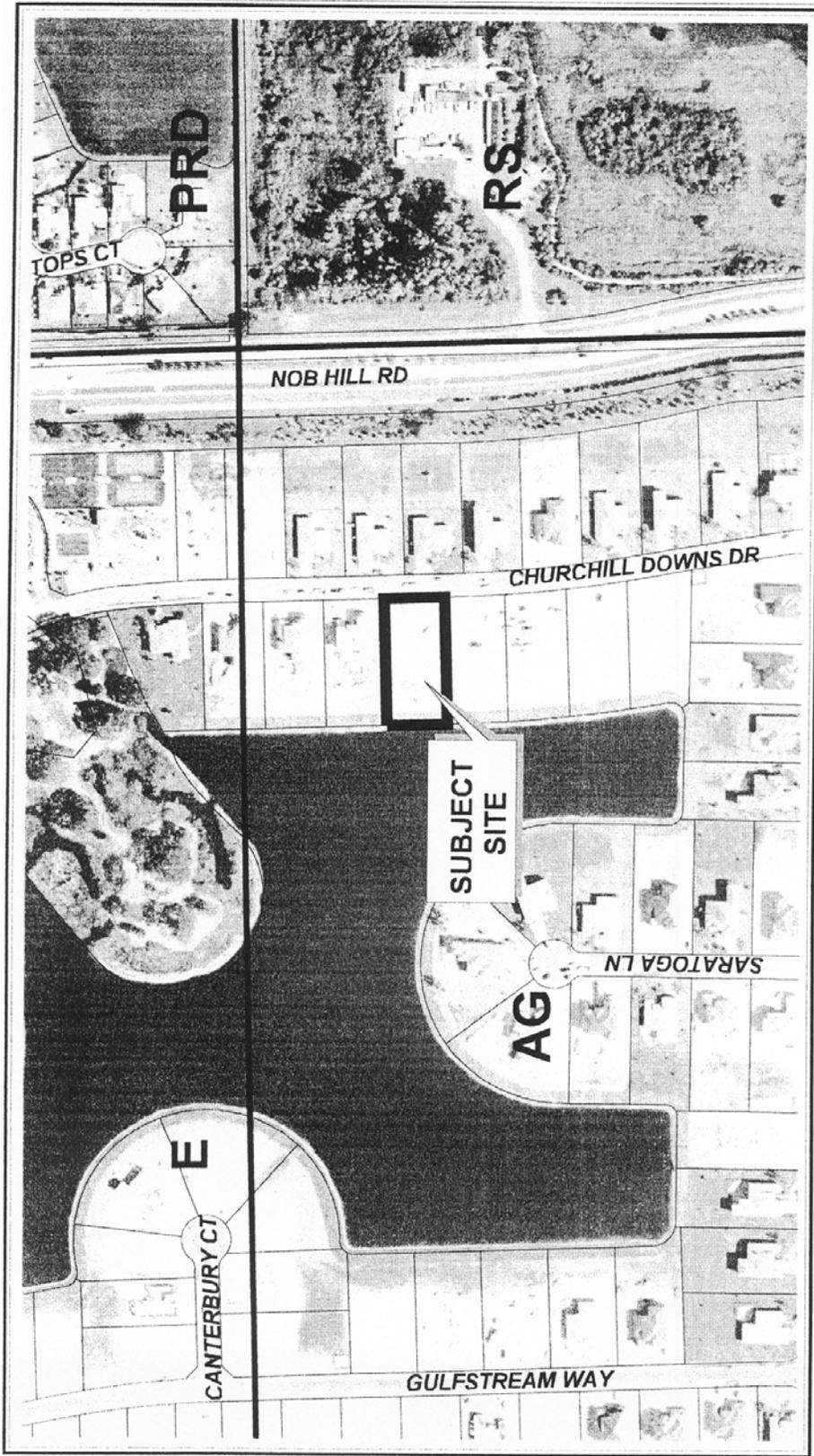
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CHURCHILL DOWNS DRIVE
 PARCEL "A-1"
 PRIVATE ROADWAY, INGRESS/EGRESS,
 DRAINAGE & UTILITY EASEMENT (PER PLAT)

RECEIVED

APR 19 1994



Date Flown:
12/31/02

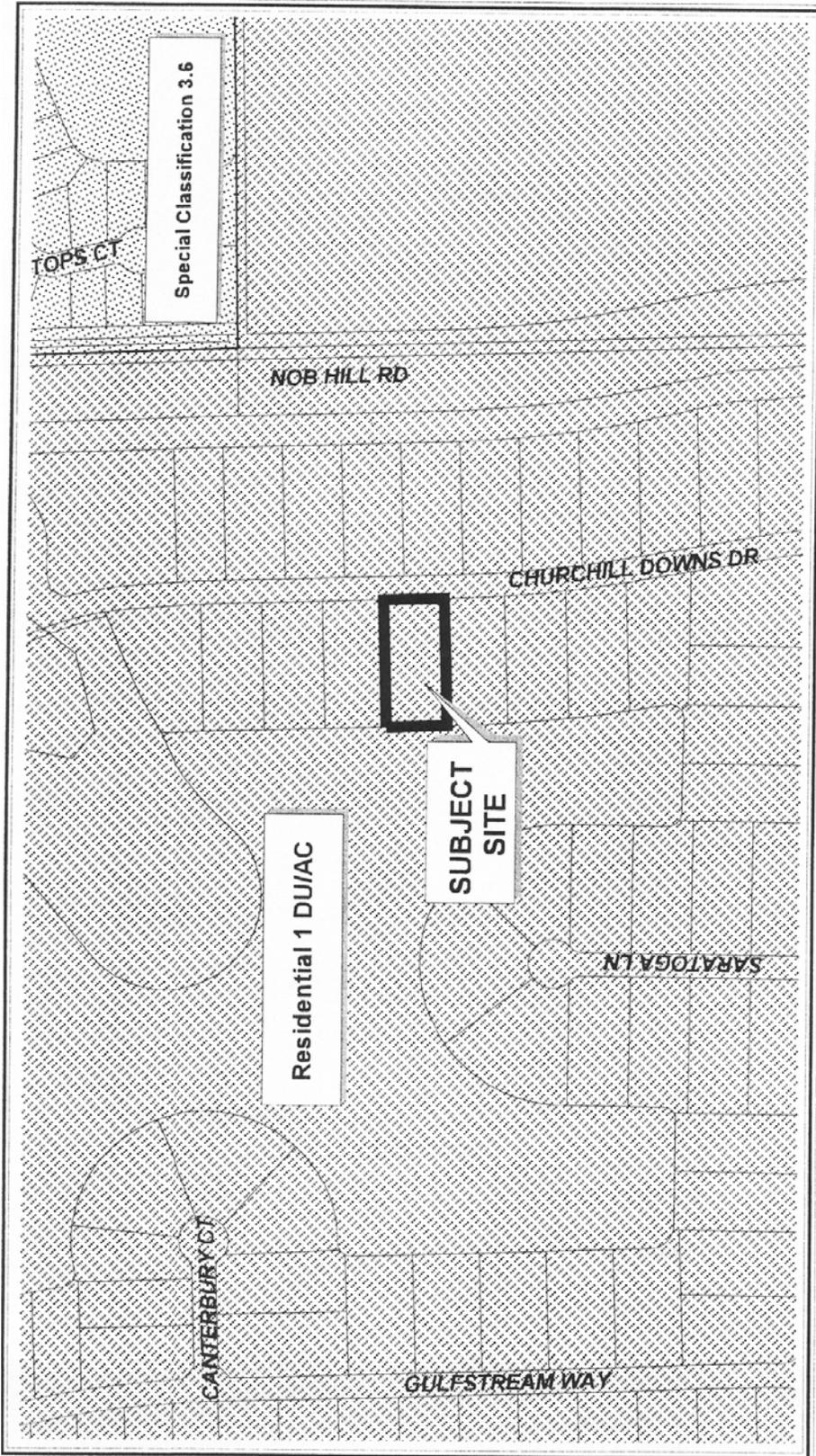


Prepared by the Town of Davie GIS Division

VARIANCE
V 4-1-04
Zoning and Aerial Map

Prepared By: ID
Date Prepared: 5/18/04





VARIANCE
V 4-1-04
Future Land Use Map

Prepared By: ID
 Date Prepared: 5/18/04



Prepared by the Town of Davie GIS Division

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