

**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 6-3-04, 5700 University Drive/Generally located at the northeast corner
of University Drive and Stirling Road

AFFECTED DISTRICT: District 2

TITLE OF AGENDA ITEM: V 6-3-04, Lakeside Town Shops

The petitioner requests a variance **FROM:** Section 12-33 (Q) (11) of the Town of Davie Land Development Code that requires when an outparcel is created within any of the business or industrial districts, said outparcel shall not be created so as to diminish the street frontage of the overall development by more than 20 percent. **TO:** allow the proposed outparcels to diminish the street frontage by 44 percent for the Lakeside Town Shops development.

REPORT IN BRIEF:

The subject property has approximately 1,000 feet of frontage on Stirling Road and 1,080 feet of frontage on University Drive for a total of 2,080 lineal feet of frontage. The proposed Lakeside Town Shops site plan illustrates four (4) outparcels fronting on University Drive and Stirling Road. The proposed outparcels total 920 lineal feet, 44%, and exceeds the allowable street frontage of 20%. As such, a variance is required to allow the four proposed outparcels to be created as shown on the site plan.

The intent of the code is to limit the number of outparcels to provide an attractive development while not inhibiting the visibility of the main shopping center. The Town of Davie Land Development Code defines an outparcel as a parcel of land which was previously included in an overall development or larger parcel of land, subdivided for the purpose of building a separate, freestanding building or for marketing as a separate or distinct parcel of land. The four proposed outparcels meet the Town's definition. A fifth building, located at the southwest corner, is not considered an outparcel.

A freestanding building can occupy a portion of the outparcel or occupy the entire parcel per the code. The visibility of the main shopping center will only be obstructed by buildings in the outparcels. In the case of the Lakeside Town Shops site plan, the applicant has created four (4) outparcels consisting of buildings with associated parking and landscaping. These four (4) parcels range from 216' to 219' in length, with a total length of 920'. Upon close examination of the code, if the outparcels were only the buildings without associated parking and landscaping, the applicant would meet the maximum 20% allowable street frontage without a

variance. The code section lacks clear guidance to implement the intent of the code. Staff is currently in the process of revising the Land Development Code Section 12-33(Q)(11) to better address its intent and implementation.

PREVIOUS ACTIONS: None

CONCURRENCES: At the July 28, 2004 Planning and Zoning Board meeting, Vice-Chair Turin made a motion, seconded by Mr. Stevens, to approve the variance request involving Section 12-33 (Q) (11) of the Town of Davie Land Development Code to allow the proposed outparcels to be diminished, as agreed in a proposed Deed Restriction to be no more than 20 percent of all "building frontage" as presented on the site plan; and subject to the further stipulation of the developer that the parking for each outparcel will be wholly contained within that outparcel (Motion carried 3-0 in order to move forward to Town Council).

FISCAL IMPACT: N/A

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

Attachment(s): Planning Report, Justification letter, Land use map, Subject site and Aerial map.

Application #: V 6-3-04 Lakeside Town Shops
Exhibit "A"

Revisions: 7/28/04
Original Report Date: 7/1/04

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

Application Information

Owner:

Name: Mary L. Wolf
Address: P. O. Box 215
City: Newville, Alabama 36353
Phone:

Petitioner:

Stiles Development Corp.
300 SE 2 Street
Ft. Lauderdale, FL 33301
(954) 627-9173

Background Information

Date of Notification: July 7, 2004 **Number of Notifications:** 148

Application History: No deferrals have been requested.

Planning and Zoning Board Recommendations: At the July 28, 2004 Planning and Zoning Board meeting, the Board made a motion to approve the variance subject to a deed restriction.

Application Request: The petitioner requests a variance **FROM:** Section 12-33 (Q) (11) of the Town of Davie Land Development Code that requires when an outparcel is created within any of the business or industrial districts, said outparcel shall not be created so as to diminish the street frontage of the overall development by more than 20 percent. **TO:** allow the proposed outparcels to diminish the street frontage by 44 percent for the Lakeside Town Shops development.

Address/Location: 5700 University Drive/Generally located at the northeast corner of University Drive and Stirling Road

Future Land Use Plan Designation: Commercial

Zoning: UC, Urban Commercial District and CC, Commerce Center District

Existing Use: Vacant

Proposed Use: 272,375 square feet of retail use consisting of an 185,000-square-foot Target Superstore, an additional 68,875-square-foot in-line retail uses, and 18,500-square-foot outparcels.

Parcel Size: 50.45 gross acres (44.33 net acres)

Surrounding Uses:

North: Nursery
South: Vacant Commercial Land/CBWCD/
Silverado Homes
East: Exotic Acres/Landscape Nursery
With Single Family Homes
West: University Creek Shops/Gas Station

Surrounding Land

Use Plan Map Designations:

Commerce/Office
Commercial,
Residential (5 DU/AC)
Residential (1 DU/AC),
Residential (10 DU/AC)
Commercial

Surrounding Zoning:

North: CC, Commerce Center District
South: B-3, Planned Business Center District /RM-5, Low Medium Density Dwelling
District/CF, Community Facilities District
East: A-1, Agricultural District/R-1, Estate Dwelling District
West: B-2, Community Business District

Zoning History

Previous Request on same property:

Related Zoning History: At the June 16, 2004 Town Council meeting, Town Council approved the rezoning request for the Wolf Family Plat, from CC, Commerce Center District to UC, Urban Commercial District subject to the recordation of a Declaration of Restrictive Covenant to restrict the subject property from the following uses: catering establishments, dance hall/club, game room/arcade, golf course, hotel/motel, mobile home sales, mortuary, motor fuel pumps, motorcycle shop, pawnshop, private clubs, massage parlor, adult bookstore, pinball or electronic game room, an establishment that permits nude or partially nude entertainment, or so called "head shop".

Related Plat History:

Wolf Family Plat:

On May 19, 2004, Town Council approved the delegation request (DG 12-2-03) to amend the restrictive note on the "Wolf Family Plat" **From** "This plat is restricted to 90,000 square feet of commercial use, 387,000 square feet of office use, 100,000 square feet of warehouse/storage use and a 185 room hotel. Commercial uses shall be restricted to restaurants, retail establishments, and personal service and shall not consume more than 20 percent of the gross floor area on this plat. Commercial/retail uses are not permitted within the warehouse/storage and/or office use without the approval of the Board of County Commissioners who shall review and address these uses for increase impacts." **To** "This plat is restricted to 275,000 square feet of commercial use."

The plat, Wolf Family Plat (Plat Book 171, Page 85), was approved by Town Council on March 16, 1999 by Resolution R 99-91. The approved plat allows for 90,000 square feet of commercial use, 387,000 square feet of office use, 100,000 square feet of warehouse/storage use and a 185

room hotel. This plat was approved by the Broward County Board of County Commissioners on November 7, 2000.

Meeks Farms Plat:

On May 19, 2004, Town Council approved the developers agreement (DA 3-1-04) for the findings of adequacy for Meeks Farms Plat, and amending the restrictive note on the plat **From** "This plat is restricted to 125,000 square feet of office use. Commercial/retail uses are not permitted without the approval of the Board of County Commissioners who shall review and address these uses for increases impact." **To** "This plat is restricted to 7,000 square feet of bank use."

The plat, Meeks Farms Plat, was approved by the Broward County Commission on January 17, 1995 for 27,810 square feet of office use under the *de minimis* exception to traffic concurrency, with a requirement that a building permit be issued by January 17, 1998. On March 18, 1997, the County Commission approved a delegation request amending the note on the plat to permit 125,000 square feet of office use, with the requirement that a building permit be issued by March 18, 2002. No building permit has been issued and the County's finding of adequacy expired on March 18, 2002.

Previous Requests on same property:

Concurrent to this application, the applicant has filed a variance application V 6-2-04 for the proposed Lakeside Town Shops. The variances are as follows:

1. **FROM:** Section 12-107(D)5(a) of the Town of Davie Land Development Code which requires a 30' wide landscaping buffer along University Drive for industrial and commercial districts, **TO:** reduce the landscaping buffer along University Drive for Lakeside Town Shops to a range from 5'4" to 10' wide;
2. **FROM:** Section 12-108(C)4 of the Land Development Code which requires landscaping medians between double parking bays to be a minimum of 10' wide, not including curbing, **TO:** reduce the medians between double parking bays to 0 in order to allow head-to-head parking spaces for Lakeside Town Shops.

On July 7, 2004, Town Council approved Ordinance 2004-21 to adopt Land Use Amendment LA 3-10, to change the land use of the subject site from Commerce/Office to Commercial.

On June 16, 2004, Town Council approved the delegation request (DG 3-1-04) to amend the non-vehicular access line (NVAL) along Stirling Road to allow a 100-foot opening rather than the 50-foot opening recorded on the Wolf Family Plat.

Wal-Mart Stores East, Inc. initiated Land Use Plan Amendment, LA 00-1A, to change the land use of the subject site from Commerce/Office to Commercial. The application was denied by Town Council on May 3, 2000 by a vote of 5-0.

Application Details

The Town of Davie Land Development Code Section 12-33 (Q) (11) requires when an outparcel is created within any of the business or industrial districts, said outparcel shall not be created so as to diminish the street frontage of the overall development by more than 20 percent.

The subject property has approximately 1,000 feet of frontage on Stirling Road and 1,080 feet of frontage on University Drive for a total of 2,080 lineal feet of frontage. The proposed Lakeside Town Shops site plan indicates four (4) outparcels fronting on University Drive and Stirling Road. The proposed outparcels total 920 lineal feet, 44%, and exceeds the allowable street frontage of 20%. As such, a variance is required to allow the four proposed outparcels be created as shown on the site plan.

Applicable Codes and Ordinances

1. Section 12-33 (Q) (11) of the Town of Davie Land Development Code requires when an outparcel is created within any of the business or industrial districts, said outparcel shall not be created so as to diminish the street frontage of the overall development by more than 20 percent.
2. Section 12-309, Review for variance.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 10. This Planning Area is generally located north of Stirling Road, south of Griffin Road, east of Pine Island Road, and west of SW 76 Avenue. Pine Island Road, a major north/south arterial, on the western limits of this planning area provides through access from Griffin Road to Stirling Road. Commercial development of retail centers and office buildings line the University Drive corridor. The east side of this corridor is predominantly small-scale commercial development, with multi-family residential development (one existing, one proposed) and plant nurseries on the northern half of the corridor, and commerce park development and cattle grazing on commerce park-zoned lands on the southern half. Commercial development also exists along Griffin Road within this planning area. Several small-scale single-family residential communities, two trailer parks totaling approximately 30 acres in area, and an 8-acre industrial park are located within this planning area, together with six parcels zoned for community facilities uses. These include, but are not limited to, a regional library, multiple church uses varying scales, a Girl Scout campground facility, and a private school.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 102.

Applicable Goals, Objectives and Policies:

Future Land Use Element, Policy 7-1: The Town shall endeavor to expand its economic base through expansion of the commercial sector of the economy.

Future Land Use Element, Policy 7-3: Zoning regulations shall provide for varying intensities of commercial development and direct application of appropriate districts where compatible with adjacent and surrounding residential uses.

Future Land Use Element, 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 Element, Policy 17-3: Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Staff Analysis

The intent of the code is to limit the number of outparcels to provide for an attractive development with outparcels while not inhibiting the visibility of the main shopping center. The Town of Davie Land Development Code defines an outparcel as a parcel of land which was previously included in an overall development or larger parcel of land, subdivided for the purpose of building a separate, freestanding building or for marketing as a separate or distinct parcel of land. All landscaping, parking, and open space requirements of the applicable zoning district is to be satisfied on-site or provided for within the overall development, through shared parking or cross parking.

A freestanding building can occupy a portion of the outparcel or occupy the entire parcel per the code. The visibility of the main shopping center will only be obstructed by buildings in the outparcels. In the case of the Lakeside Town Shops site plan, the applicant has created four (4) outparcels consisting of buildings with associated parking and landscaping. These four (4) parcels range from 216' to 219' in length, with a total length of 920'. Upon close examination of the code, if the outparcels were only the buildings without associated parking and landscaping, the applicant would meet the maximum 20% allowable street frontage without a variance. The code lacks clear guidance to implement the intent of the code. Staff is currently in the process of revising the Land Development Code Section 12-33(Q)(11) to better address its intent and implementation.

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 has approximately 1,000 feet of frontage on Stirling Road and 1,080 feet of frontage on University Drive. The maximum allowable frontage for outparcels for this site is 416 lineal feet. However, the applicant intends to create four (4) outparcels, totaling 920 feet of frontage. There is not a special circumstance or condition to the land for which the variance is sought. However, both the intent and implementation of this code section are questionable.

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 reasonable use of the land will not be deprived since the subject site can be developed with less outparcels.

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

The alleged hardship is self-created due to the desire of the developer to create four (4) separate outparcels with a total frontage of 920 lineal feet. Staff, in conjunction with the applicant, looked at the possibility for joining outparcels to provide for attractive development while not inhibiting the visual effect of the larger shopping center.

(b) Granting of the variance may not be 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 no variance will be required for the proposed development if the developer reduces the number or size of the outparcels. The variance is not the minimum variance for construction of the proposed development.

(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 code is to limit the number of outparcels to prevent the buildings from obstructing the view of the main shopping center. Although the proposed outparcels take approximately 44% of the street frontage, the buildings on these outparcels occupy far less than 44%, due to on-site parking and landscaping. Since only buildings can block the view into the overall center, the impact of the requested variance is minimum. Staff is currently in the process of revising the Land Development Code Section 12-33(Q)(11) to better address its intent and implementation.

Granting of the variance will not be injurious to the neighborhood, and the applicant has received the support from the adjacent homeowners (see attached letters).

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.

Planning & Zoning Board Recommendation

At the July 28, 2004 Planning and Zoning Board meeting, Vice-Chair Turin made a motion, seconded by Mr. Stevens, to approve the variance request involving Section 12-33 (Q) (11) of the Town of Davie Land Development Code to allow the proposed outparcels to be diminished, as agreed in a proposed Deed Restriction to be no more than 20 percent of all "building frontage" as presented on the site plan; and subject to the further stipulation of the developer that the parking for each outparcel will be wholly contained within that outparcel (Motion carried 3-0 in order to move forward to Town Council).

Town Council Actions

Exhibits

- 1) Justification letter
- 2) Supporting letters from surrounding residents
- 3) Subject Site Map
- 4) Land Use Map and Aerial

Prepared by: _____

Reviewed by: _____

**VARIANCE REQUEST
LAKESIDE TOWN SHOPS
MSP-2-1-04**

Applicant, Stiles Development Company, ("Applicant") proposes the development of property located at 5700 University Drive, in the Town of Davie ("Property"). Applicant seeks a variance from the requirements of Section 12-23(Q)(1) of the Town of Davie Code of Ordinances ("Code"). Section 12-23(Q)(1) of the Code regulates the development of outparcels in relationship to street frontage on property within the Town. In order to provide a quality development on the Property, the Applicant seeks a variance from this Section of the Code as it relates to calculation of diminished street frontage of the overall development.

As stated below, the granting of the variance requested will adhere to the variance review criteria set forth in Section 12-309 of the Code. The Applicant will demonstrate that: (1) special conditions exists which merit the variance; (2); the granting of the variance is necessary for the reasonable use of the Property; and (3) the variance is not contrary to the public interest.

(1) There are special circumstances or conditions applying to the land 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 which applies to this variance request is created by the unique character of the Property as it relates to the definitions within the Code. As proposed, the development of the Property will include the construction of buildings on outparcels which are adjacent to University Drive and Stirling Road. Although there is no land development regulation which explains how a street front is diminished (as described in Section 23-12(Q)(1)), it seems logical, that the only thing that can "diminish a street frontage" is anything that obstructs a view, in this case, the building on an outparcel would be the only such obstruction. Section 12-503 of the Code defines an outparcel as follows: "A parcel of land which was previously included in an overall development or larger parcel of land, subdivided for the purpose of building a separate, freestanding building..." This definition implies that a building is considered part of an outparcel. To that end, as proposed, the combined total width of the outparcel buildings will not exceed the 20% maximum referenced in Section 12-23(Q)(1). Furthermore, considering their proposed location on each outparcel, each street frontage will actually be enhanced.

(2) 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 requested variance is necessary for the reasonable use of the land. Specifically, by permitting development of the outparcels as requested, the Applicant will have the opportunity to maximize the Property in a way that will allow for the creation of an overall project that will accommodate positive economic users. In addition, the granting of the variance will allow the development of an aesthetically pleasing site. **In accordance with our understanding of the definition of an outparcel (as outlined above), development on the Property outparcels will not effect the visual impact of the Property by more than 20%.** It is clear that the variance request made herein is the minimum that will accomplish the development purpose for the Property.

(3) 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.

Granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood. In fact, the purpose of Section 12-23(Q)(1) is to prevent the development of property in a way that hinders the view of the main development or related street frontages. As proposed, development on the Property will actually increase visibility to and from the site. Strategically placing the buildings this way will allow parking closer to each roadway, while still providing visual access to the Property. It should also be noted that the location of the outparcels are the furthest buildings from the adjacent homeowners and as such reduces the developable square footage that would need to be built adjacent to the east property line.

As proposed, the outparcels will be developed in complete harmony and keeping with the neighborhood.

EXOTIC ACRES
HOMEOWNERS ASSOCIATION
c/o Harry Stampler
2801 Evans Street - Hollywood, FL 33020

June 8, 2004

Marci Nolan
Planning Supervisor
Town of Davie
6591 Orange Drive
Davie, Florida 33314

Via Facsimile
954.797.1204

Re: Lakeside Shoppes

Dear Ms. Nolan

Exotic Acres is strongly in favor of the variance that the Town of Davie is asking Stiles Corporation to seek for the above-referenced development. The landscape buffer on University Drive would affect the buffer on the east property line. Exotic Acres is naturally concerned and we wish to express our full support that this variance be granted.

One of our major requests to Stiles Corporation was to increase the buffer on the east, including landscaping and a lake. The site plans that Stiles has shown us include a buffer on the east side (along 76th Avenue) of 30' to 50'. This wide buffer was very important to all the residents of Exotic when we backed the overall plan. Reducing the buffer on University will not affect any residents negatively. Stiles Corporation has complied with our request while providing the Town of Davie with a plan for a first class project.

Denial of this variance would force a shift of the entire plan to the east – buffered by our homes, a residential development. The buffer would increase on University Drive, a major commercial corridor.

Please consider the Exotic Acres residents opinion. Also remember that Stiles worked and re-worked their plan to make ALL surrounding residents happy. Increasing the eastern buffer to more than code requirement was a major reason why the Exotic Acres Board of Directors gave its unanimous support to Stiles in its efforts to re-zone.

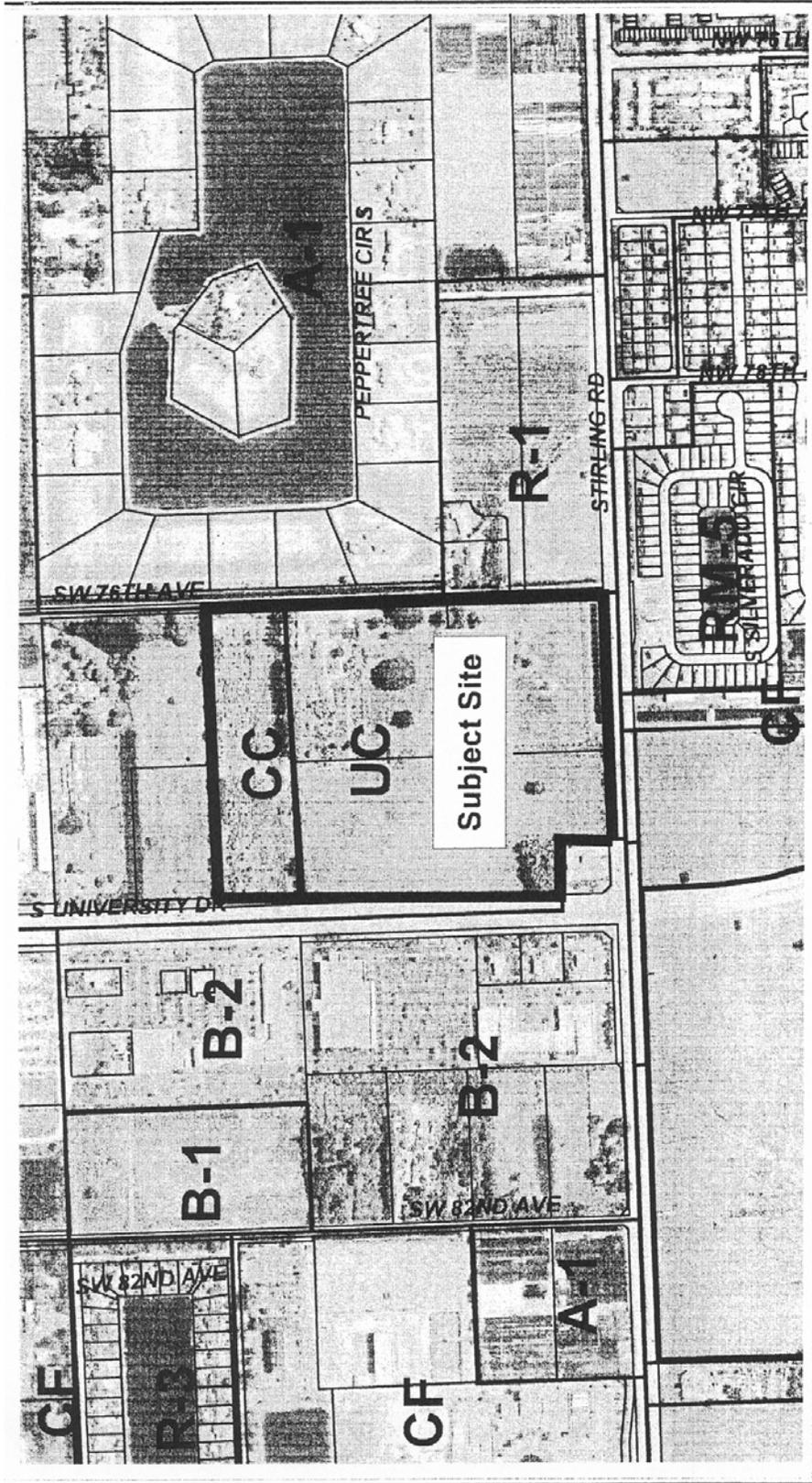
Thank you in advance for supporting Stiles variance.

Sincerely

~~EXOTIC ACRES HOMEOWNERS ASSOCIATION~~

Harry Stampler
President

HS/dc



Date Flown:
12/31/00

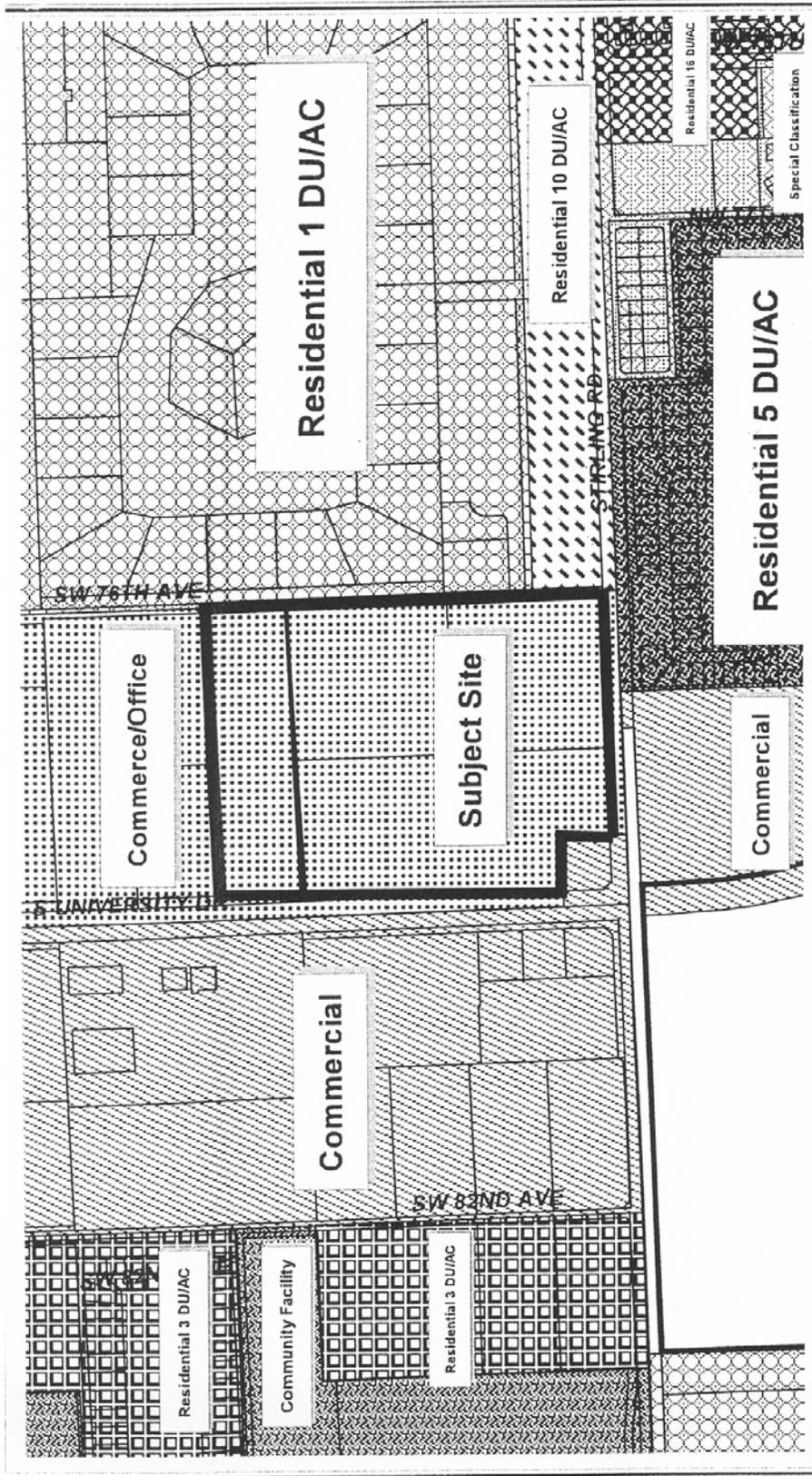


Planning & Zoning Division - GIS



VARIANCE
V 6-2-04 & V 6-3-04
Zoning and Aerial Map

Prepared By: AYF
Date Prepared: 3/10/04



Date Flown:
12/31/00



500 0 500 1000 Feet



Planning & Zoning Division - GIS



VARIANCE
V 6-2-04 & V 6-3-04
Future Land Use Map

Prepared By: AYF
Date Prepared: 3/10/04