

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP/(954) 797-1101

SUBJECT: Quasi Judicial Hearing: Variance
V 1-1-01, Carnahan, Proctor, & Cross, Inc./Goldberg, 8200-8270 Griffin
Road/Generally located at the southwest corner of Griffin Road and
SW 82 Avenue

TITLE OF AGENDA ITEM: V 1-1-01, Carnahan, Proctor, & Cross, Inc./Goldberg

REPORT IN BRIEF: The Griffin Plaza Shopping Center consists of a one-story commercial building approximately 23,000 square feet in area that supports retail and restaurant uses. As part of the Griffin Road widening project, the Florida Department of Transportation has taken approximately fifteen (15) feet of additional right-of-way along the northern portion of the parcel. The right-of-way that was taken includes the existing north row of parking that serves the parcel. In order for the parcel to function after the loss of these spaces, a revised site plan has been submitted and is being reviewed concurrently with this request. The revised site plan addresses the recovery of the lost parking spaces and attempts to bring the redesigned parking areas into compliance with the Land Development Code. However because of pre-existing conditions and site restrictions, the petitioner cannot design the site to fully meet the Land Development Code's requirements. In addition, the proposed site modifications are in accordance with the cure plan agreed upon by the property owner and the Florida Department of Transportation, wherein compensation for the taking of the right-of-way has been tied to completing the site modifications.

Staff finds that the applicant has made every effort to meet the Land Development Code's requirements in each instance. The applicant is adding a median landscape island and other landscape islands where there were none. In conclusion, staff finds that while the site falls short of current Land Development Code standards, it is more aesthetically pleasing and less nonconforming overall due to the modifications proposed as a result of the taking.

PREVIOUS ACTIONS: None

CONCURRENCES: The Planning and Zoning Board recommended approval at its October 10, 2001 meeting (4-0 Mr. Waitkus absent).

FISCAL IMPACT: None

RECOMMENDATION(S): Motion to approve

Attachment(s): Planning Report, Justification letter, Signage plan, Stipulated Final Judgment between FDOT and owner (excerpt), Land use map, Subject site map, Aerial

Application #: V 1-1-01
Exhibit "A"

Revisions:
Original Report Date: 11/2/01

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

APPLICANT INFORMATION

Owner:	Agent:
Name: Rita Goldberg	Name: Carnahan, Proctor, & Cross, Inc. ; Donna C. West
Address: 20123 NE 19 Place	Address: 6101 W. Atlantic Blvd., 2nd floor
City: North Miami Beach, FL 33179	City: Margate, FL 33063
Phone: (305)932-7575	Phone: (954)972-3959

BACKGROUND INFORMATION

Date of Notification: October 3, 2001 **Number of Notifications:** 36

Application History: No deferrals have been requested.

Application Request: Five (5) variances **FROM:** Section 12-208(A)(29)(a)(1) of the Land Development Code which requires one hundred and thirty (130) parking spaces for the existing uses **TO:** reduce the number of spaces required by eight (8); **FROM:** Section 12-107(D)(5)(a) of the Land Development Code which requires a twenty (20) foot landscape buffer on arterial streets **TO:** reduce the landscape buffer width on the northern portion of the parcel to an average of ten (10) feet; **FROM:** Section 12-107(D)(4) of the Land Development Code which requires a ten (10) foot landscape buffer between commercially zoned properties **TO:** reduce the landscape buffer on the eastern and western portions of the parcel from ten (10) feet to 0 (zero) feet; **FROM:** Section 12-108(C)(2)(a) of the Land Development Code which requires that landscape islands be a minimum of ten (10) feet in width **TO:** reduce the median landscape island to three (3) feet in width; **FROM:** Section 12-83 of the Land Development Code which requires thirty (30) percent open space in B-2, Community Business Districts **TO:** reduce the open space requirement to twenty-four (24) percent.

Address/Location: 8200-8270 Griffin Road/Generally located at the southwest corner of Griffin Road and SW 82 Avenue.

Future Land Use Plan Designation: Commercial

Zoning: B-2, Community Business District

Existing Use: One-story commercial building, Griffin Plaza Shopping Center

Proposed Use: same

Parcel Size: 2.49 acres (108,464 square feet)

	<u>Surrounding Uses:</u>	<u>Surrounding Land Use Plan Designation:</u>
North:	Griffin Road, South New River Canal	Recreation & Open Space
South:	Mobile Home Park	Residential 16 DU/AC
East:	Davie-Cooper City Library	Commercial
West:	Commercial	Commercial

Surrounding Zoning:

North:	Unzoned, Griffin Road, South New River Canal
South:	MH-5, Mobile Home Residential District
East:	CF, Community Facilities District
West:	B-2, Community Business District

ZONING HISTORY

Related Zoning History: None.

Previous Request on same property: Available records indicate that Town Council approved the site plan for this property during the early 1970s. Attempts to locate files were unsuccessful.

APPLICATION DETAILS

The Griffin Plaza Shopping Center site plan was approved for this property during the 1970s. The parcel consists of a one-story commercial building approximately 23,000 square feet in area that supports retail and restaurant uses. As part of the Griffin Road widening project, the Florida Department of Transportation has taken approximately fifteen (15) feet of additional right-of-way along the northern portion of the parcel. The right-of-way that was taken includes the existing north row of parking that serves the parcel. In order for the parcel to function after the loss of these spaces, a revised site plan has been submitted and is being reviewed concurrently with this request. The revised site plan addresses the recovery of the lost parking spaces and attempts to bring the redesigned parking areas into compliance with the Land Development Code. However because of pre-existing conditions and site restrictions, the petitioner cannot design the site to fully meet the Land Development Code's requirements. In addition, the proposed site modifications are in accordance with the cure plan agreed upon by the property owner and the Florida Department of Transportation, wherein compensation for the taking of the right-of-way has been tied to completing the site modifications.

Applicable Codes and Ordinances

Section 12-208(A)(29)(a)(1) of the Land Development Code requires that parking for shopping centers under 50,000 square feet be calculated for each use.

Section 12-107(D)(5)(a) of the Land Development Code requires a twenty (20) foot landscape buffer on arterial streets.

Section 12-107(D)(4) of the Land Development Code requires a ten (10) foot landscape buffer between commercially zoned properties.

Section 12-108(C)(2)(a) of the Land Development Code requires that landscape islands be a minimum of ten (10) feet in width.

Section 12-83 of the Land Development Code requires thirty (30) percent open space in B-2, Community Business Districts.

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 at varying scales, a girl scout campground facility, and a private school. The Town is optimistic in the potential expansion of commercial uses within this planning area, given the increased accessibility provided by Pine Island Road, and potential development of agricultural lands in the years to come.

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

Applicable Goals, Objectives and Policies: Policy 7-1 The Town shall endeavor to expand its economic base through expansion of the commercial sector of the economy.

Policy 17-5 Land development regulations shall provide for the eventual phasing out of non-conforming uses.

Policy 17-6 Town land development regulations shall address incompatible land uses through requirements such as buffering and setbacks.

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 and working environments.

Staff Analysis

The taking of right-of-way by the Florida Department of Transportation creates special circumstances on the subject site. Because of the taking the applicant must make modifications to the subject site, which was developed under different development standards, in order for it to continue to function. The applicant has worked with staff in an attempt to bring the site into compliance with the present Land Development Code standards, however because of the taking and due to pre-existing conditions this is not possible without a reduction in building area. A reduction in building area of approximately nine (9) percent would be necessary to meet the current parking code and to provide a standard landscape buffer along the western property line, while a reduction of approximately one-third would be required to provide landscaping that meets Land Development Code standards for the northern portion of the site.

Staff finds that the applicant's request to reduce the number of required parking spaces from one hundred thirty (130) to one hundred twenty-two (122) is reasonable due to the taking, and that the one hundred twenty-two (122) spaces provided will be adequate to serve the uses on the subject site. In an effort to bring the site into compliance the petitioner has submitted a signage plan, and is converting restaurant space to retail space in order to reduce parking requirements. A six (6) percent reduction in required open space has also been requested. Prior to the taking there was twenty (20) percent open space on the site, and the proposal shows twenty-four (24) percent. It should be noted that the two (2) foot parking overhang that abuts the median landscape island is in fact green area that does not count toward the required open space on the site. Staff finds the applicants attempt to provide additional open space to be sufficient in light of site conditions.

In addition, the three (3) other variances that have been requested are aesthetic in nature and staff finds that the applicant has made every effort to meet the Land Development Code's requirements in each instance. The petitioner is adding a median landscape island and other landscape islands where there were none. In conclusion, staff finds that while the site falls short of current Land Development Code standards, it is more aesthetically pleasing and less nonconforming overall due to the modifications proposed as a result of the taking.

Findings of Fact

Variances:

Section 12-309(B)(1):

The following findings of facts apply to the variance request.

(a) There is 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, and that said circumstance or condition is 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 variance is sought, and that alleged hardship is not self-created by any person having an interest in the property.

The right-of-way taking is a special circumstance and the existing site is constrained by the location of the building.

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

The variances are necessary for reasonable use of the land or building given the current building would have to be significantly reduced to meet the provisions of the Land Development Code.

(c) Granting of the requested variance, is 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 applicant's attempt to bring the site into conformance by providing additional

landscaping, signage plan, and change in tenants to reduce required parking meets the intent of the Code and will improve the overall appearance of the development.

Staff Recommendation

Recommendation: Based upon the above and the finding of facts in the positive, staff recommends **approval**, of petition V 1-1-01.

Planning & Zoning Board Recommendation

The Planning and Zoning Board recommended approval at its October 10, 2001 meeting (4-0 Mr. Waitkus absent).

Exhibits

1. Justification letter
2. Signage plan
3. Stipulated Final Judgment between FDOT and owner (excerpt)
4. Land use map
5. Subject site map
6. Aerial

Prepared by: _____

Reviewed by: _____

GRIFFIN PLAZA SHOPPING CENTER VARIANCE REQUEST/JUSTIFICATION

Introduction:

The Griffin Plaza Shopping Center, located at the southwest corner of Griffin Road and SW 82nd Avenue, was originally developed during the 1970's. The parcel contains a one-story commercial building which serves various retail and restaurant uses.

In order to accommodate the proposed widening of Griffin Road, the Florida Department of Transportation has taken additional right-of-way along the north portion of the parcel. This taking will encroach onto the existing north row of parking spaces which currently serve the property. In order for this parcel to continue to function adequately after the loss of these spaces, a revised site plan has been prepared and an application for approval of the revised site plan is being filed concurrently with this variance request.

The revised site plan design addresses recovering the lost parking spaces and brings the redesigned parking areas into compliance with the current code to the extent possible. However, there are a few areas of the site plan which do not meet the current code because of pre-existing conditions and site restrictions. The property owner requests that the following variances be granted as they are the minimum variances that will allow the parcel to continue in its current use.

Request and justification:

- (a) Per the current code, the parking requirement is 130 parking spaces. The site plan proposes 122 spaces, which is a reduction of 8 spaces (6%) from the code requirement. Currently the site has 126 parking spaces, so this will be a reduction of only 4 spaces (3%) from the existing parking spaces currently serving the property. The peak demand for the parking spaces for the Uncle Al's restaurant is in the evening when most of the other stores in the shopping center are closed, thereby reducing the number of parking spaces actually needed for the shopping center.
- (b) The current code requires a 20-foot landscape buffer along Griffin Road and a 10-foot landscape buffer along the west and east property lines of this site. Due to the restricted distance between the front of the building and the new right-of-way line, there is an average remainder of 10.4 feet available for the landscape buffer between the proposed north row of parking spaces and the right-of-way line. The proposed design incorporates compact spaces and grassed overhangs in order to maximize the buffer area as much as possible. The existing edge of pavement of the drive aisle on the west side of the building is approximately 1' from the west property line. Since the building is constructed 25 feet from the property line, there is insufficient area to provide any additional landscape buffer. The adjacent parcel is zoned commercial and currently has no structures or parking adjacent to this area, so the existing condition does not adversely affect the adjacent parcel. On the east side, there is an existing 50' Central Broward Drainage District canal easement which runs from the property line to the building. There is a 25-foot wide canal along the east property line within the easement. The Central Broward Drainage District will not allow any trees to be planted in the easement as they would be a hazard to drainage in a storm should they fall in the canal.
- (c) A 10-foot wide landscape island is required by code between the parking spaces and the access drive in the parking area on the north side of the building. A 5-foot wide island is being proposed as this causes less of an impact on the landscape buffer along Griffin Road than would a 10-foot island. Two feet of the 5-foot island will be used for overhang of vehicles

parking in the spaces on the south side of the island. In our discussions with staff, it was determined that the most desirable layout, given the restrictions of the area between the front of the building and the new right-of-way line, is to provide a reduced width island between the parking spaces and the drive aisle. This design maximizes the width of the landscape buffer along Griffin Road while still providing a landscape island within the parking lot between the parking spaces and the access drive.

- (d) In this B-2 zoning category, the minimum open space requirement is 30%. The proposed site plan provides for 24% open space. The existing site has only 20% open space, so the proposed site plan will provide for an increase of 4% of open space over the existing condition. The site plan incorporates compact parking spaces in order to maximize the proposed open space. It also incorporates grassed overhang areas which provide additional green space but which don't count towards the open space calculations. This is the greatest amount of open space that can be provided without further reducing the number of parking spaces.

There are special circumstances or conditions relating to the parcel for which the variances are sought. The site was previously developed in accordance with the codes in effect at that time, and the current codes have additional requirements that were not in effect at that time. Due to the additional right-of-way taking, the parcel will be deprived of existing parking spaces and site area. The strict application of the provisions of Chapter 12 of the Code of the Town of Davie would deprive the applicant of the reasonable use of such land and building in that it would prohibit the full use of the existing building. The hardship is not created by any person having an interest in the property, but rather by the taking by eminent domain of additional right-of-way for Griffin Road by the Florida Department of Transportation.

The owner requests your consideration and approval of this request so that the property can continue to serve the residents of the Town of Davie in its current capacity.

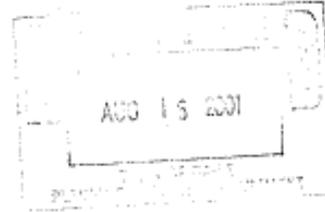


Carnahan, Proctor and Cross, Inc.

Consulting Engineers • Surveyors • Planners • Land Development Consultants

August 13, 2001

Scott McClure
Planning and Zoning Division
Town of Davie
6591 Orange Drive
Davie, FL 33314



Re: **GRIFFIN PLAZA SHOPPING CENTER**
Project no: 991202A-LA

Dear Scott:

Attached please find the proposed Master Signage Plan for the above-referenced project. As agent for the property owner, I hereby acknowledge that all signs on this parcel will be reconstructed in accordance with this Master Signage Plan once the requested variances and proposed site plan have received City approval.

Yours truly,

Donna C. West, PSM
Planning Manager

c: Mrs. Rita Goldberg
20123 NE 19 Place
North Miami Beach, FL 33179

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Web Page: www.carnahan-proctor.com

Email: margate@carnahan-proctor.com

6101 West Atlantic Blvd. • P.O. Box 4399 • Margate, FL 33063 • (954) 972-3959 • FAX: (954) 972-4178
3932 RCA Blvd. • Suite 3207 • Palm Beach Gardens, FL 33410 • (561) 799-5515

GRIFFIN PLAZA SHOPPING CENTER
8200 GRIFFIN ROAD, DAVIE, FL

TENANT SIGN CRITERIA

IT IS REQUIRED BY THE TOWN OF DAVIE THAT ALL PLAZA AND SHOPPING CENTERS DEVELOP, AND SUBMIT FOR APPROVAL TO TOWN OF DAVIE PLANNING AND ZONING DIVISION, A CONSISTANT TENANT SIGN CRITERIA.

IT IS OUR INTENT TO ESTABLISH ECONOMICAL SIGNAGE WITH MAXIMUM IDENTIFICATION VISABILTY , LENDING AN ATTRACTIVE AND ORDERLY ENHANCEMENT TO THE STORE FRONTAGE, AND, IN COMPLIANCE WITH THE TOWN OF DAVIE SIGN CODE REQUIREMENTS.

ALL SIGNAGE SHALL BE DESIGNED, CONSTRUCTED AND LOCATED IN ACCORDANCE WITH THE FOLLOWING SIGN CRITERIA. TENANTS ARE REQUIRED TO OBTAIN WRITTEN APPROVAL FROM THE LANDLORD AND PERMITS SECURED FROM THE TOWN OF DAVIE BY A QUALITIFIED AND LICENSED SIGN CONTRACTOR PRIOR TO FABRICATION.

WALL SIGNS:

ALL SIGNS ARE TO BE AN INTERNALLY LIGHTED COMPLETE ALUMINUM (.040) BOX WITH ALUMINUM ANGLE. SIGN BOX IS TO BE BRONZE IN COLOR, WITH TRANSLUCENT 3/16" NON-YELLOWING LEXAN FACES. ALL LAMPS AND BALLASTS TO BE HIGH OUTPUT UL LISTED AND LABELED. DRAIN HOLES ARE REQUIRED. SIGNS ARE TO HAVE A DEDICATED CIRCUIT AND TO BE MANAGED BY AN AUTOMATIC TIME CLOCK.

ALL SIGNS ARE TO BE (4) FOUR FEET IN HEIGHT. THE LENGTH IS DETERMINED BY THE STORE FRONT LENGTH. A MAXIMUM OF (2) TWO SQUARE FEET OF SIGNAGE IS ALLOWED PER LINEAL FOOT OF STORE FRONTAGE, NOT TO EXCEED (150) ONE HUNDRED FIFTY SQARE FOOT OF TOTAL (WALL) SIGN AREA. EXAMPLE: A (20) TWENTY FOOT STORE FRONT IS ALLOWED A 4' X 10' BOX SIGN (40 SQ.FT.); A (30') THIRTY FOOT STORE FRONT IS ALLOWED A 4' X 15' BOX SIGN (60 SQ.FT.), ETC.

ALL SIGNS ARE TO BE INSTALLED WITH ENGINEER STRUCTURE GRADE ALUMINUM ANGLE BRACKETTS, PER ENGINEER SEALED DRAWINGS, AND ATTACHED TO THE MANSARD WITH STAINLESS STEEL HARDWARE IN VERTICAL POSITION, SO THAT SIGNS ARE PERPENDICULAR TO THE MANSARD, AND NOT FLAT ON THE SLOPING MANSARD AREAS. ALL HOLES AND HARDWARE INTO THE MANSARD ARE TO BE COVERED AND SEALED WITH BULL TO PREVENT RAIN LEAKAGE.

ALL SIGNS ARE TO BE PLACED IN UNIFORM HORIZONTAL ALIGNMENT AND CENTERED OVER STORE ENTRANCE. THE FIRST SIGN INSTALLED WILL DETERMINE THE HORIZONTAL POSITION AS APPROVED BY THE LANDLORD.

TENANT SIGN CONTRACTOR SHALL BE A REPUTABLE AND LICENCED SIGN CONTRACTOR PROVIDING LICENSE AND CERTIFICATES OF INSURANCE TO LANDLORD ALONG WITH SIGN DRAWING DESIGN AND FABRICATION DETAIL PRIOR TO SUBMITTING PERMITS TO THE TOWN OF DAVIE.

TENANT SHALL BE RESPONSIBLE FOR ALL REQUIRED PERMITS FOR THEIR SIGNS AND INSTALLATION.

FABRICATION AND INSTALLATION, INCLUDING PERMIT FEES SHALL BE AT THE TENANT'S SOLE EXPENSE.

TENANT SHALL BE RESPONSIBLE FOR THE MAINTENANCE AND REPAIRS OF IT'S SIGNAGE.

EACH BUSINESS IS ALLOWED ONE SIGN, WITH THE EXCEPTION OF END UNITS FACING TWO STREETS, IN WHICH THE TOTAL SIGNS MUST EQUAL THE STORE FRONT ENTRANCE SQUARE FOOT ALLOWANCE FORMULA (ABOVE).

SIGN CONTENT: BUSINESS NAME, ONE LINE OF PRODUCT/SERVICE DESCRIPTION, ONE PHONE, ADDRESS NUMBER. LOGOS, DESIGN, AND LETTER STYLES SUBJECT TO LANDLORD'S WRITTEN APPROVAL.

COLORS: ALL BACKGROUNDS TO BE TRANSLUCENT WHITE. SIGN CONTENT COLORS ARE RESTRICTED TO NO MORE THAN (2) TWO, (PER CITY CODE): COLORS ARE BRIGHT GREEN AND BLACK. LOGOS ARE **NOT** LIMITED IN COLOR BUT ARE RESTRICTED TO (15) FIFTEEN PERCENT OF THE TOTAL SIGN AREA, AND SUBJECT TO LANDLORD APPROVAL

WINDOW SIGNS:

VINYL LETTERING IS ALLOWED ON WINDOWS AND MUST COMPLY TO TOWN OF DAVIE CODE.

REAR DOOR SIGNAGE:

THE TENANT IS REQUIRED, PER CODE, TO PROVIDE 6" HEIGHT ADDRESS NUMBERS ON REAR ENTRY DOORS. 4" VINYL NAME IS ALLOWED.

TENANT GROUND SIGNS:

GROUND SIGNS OR A-FRAME SIGNS, SNIPE -TYPE ADVERTISING SIGNS ARE NOT ALLOWED. INDIVIDUAL OUT PARCEL BUILDINGS MAY BE REVIEWED BY THE TOWN BUILDING DEPARTMENT FOR GROUND SIGN COMPLIANCE.

BANNERS:

THE TOWN OF DAVIE ALLOWS SPECIAL EVENT AND GRAND OPENING BANNERS UP TO (4) FOUR TIMES A YEAR FOR A PERIOD OF (30) DAYS SUBJECT TO DRAWINGS SUBMITTED TO THE BUILDING DEPARTMENT FOR PERMITS. DRILLING INTO THE MANSARD FOR ATTACHMENT IS NOT ALLOWED. AN ATTACHMENT DETAIL DRAWING MUST BE SUBMITTED TO THE LANDLORD FOR APPROVAL, AND IS REQUIRED BY THE CITY, PRIOR TO PERMIT.

STATE OF FLORIDA DEPARTMENT
OF TRANSPORTATION,
Petitioner,

vs.

DAVIE GLASS, INC., et al.,
Defendants.

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CIVIL ACTION CASE 99-009078-05

PARCELS NO.: 105, 740 and 806

COPY

STIPULATED FINAL JUDGMENT

THIS CAUSE came before the Court upon the Joint Motion, set forth below, for entry of this order. The Court being advised in the premises, it is hereby

ORDERED and ADJUDGED as follows:

FILED
FLORIDA
MAY 25
FT. LAUDERDALE

1. That the Defendants AARON GOPMAN, individually and d/b/a GRIFFIN PLAZA SHOPPING CENTER; MIRIAM GOPMAN, individually and d/b/a GRIFFIN PLAZA SHOPPING CENTER; and RITA EVA GOPMAN a/k/a RITA EVA GOPMAN individually and d/b/a GRIFFIN PLAZA SHOPPING CENTER and/or their heirs and assigns (hereinafter referred to as "OWNERS") shall have and recover from the Petitioner, STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), for the taking of Parcels 105, 740 and 806, inclusive of prior deposits made pursuant to the Order of Taking (OT) entered in this cause, exclusive of attorneys fees and costs, the following:

- A. The sum of \$ 147,000.00 for land, improvements and easement rights taken, and for uncurable severance damages (limited to those in Paragraph 1-A-2-b, below).
1. This sum is subject to apportionment interests, if any, of other defendants.

2. This amount reflects:

- a. \$ 82,000.00 for land, improvements and easement rights taken
- b. \$ 65,000.00 to compensate OWNERS for losses relating solely to the vacant 3,350 square feet of space previously used as "Chianti's" restaurant; said losses include a rent differential between restaurant and retail tenancy in that space, and uncollected rent prior to mediation and for that period during which the space will be converted to retail space and unavailable for tenancy, since the 3,350 s.f. of space will be converted from restaurant to retail use to reduce the amount of parking needed for the subject's remainder property

B. The Petitioner shall make payment(s) for curing the remainder, as described below.

2. The OWNERS shall have and recover from Petitioner the sum of FOUR HUNDRED FIFTY-THREE THOUSAND DOLLARS and NO CENTS (\$ 453,000.00), to be placed into escrow for implementation of the Cure Plan described in the attached Site Plan.

A. A copy of the proposed Site Plan is attached hereto as Exhibit A.

B. The sum for implementing the Site Plan to Cure the Remainder, as detailed in Paragraph 3, below, shall be placed into escrow by OWNERS at FDIC-insured institutions (sufficient in number so that funds on deposit at each are fully FDIC-insured) selected by OWNERS and shall be used to make progress payments for construction of the Site Plan. OWNERS shall notify PETITIONER of the name of the institution(s) and account number(s) of the escrow accounts and the escrow agent.

1. Any funds remaining in escrow at the completion of implementing the Site Plan may be withdrawn by OWNERS, except as may be otherwise ordered by the Court.
2. OWNERS will bear the risk that the cost of implementing the Site Plan might exceed \$ 453,000.00, and will pay such additional cost, subject to Paragraph 4(A), below.
3. The Petitioner, on or before December 27, 2000, shall forward to Brigham Moore, LLP, defense counsel for OWNERS, the sum of ONE HUNDRED THIRTY-THREE THOUSAND THREE HUNDRED TWENTY-TWO DOLLARS (\$133,322.00), made payable to the Brigham Moore LLP Trust Account, representing payment in full for sums due under this Judgment, since
 - A. The OT deposit amount of \$ 510,700.00, less the \$ 147,000.00 described above, equals \$363,700.00, and
 - B. The Cure amount of \$ 453,000.00 less \$ 363,700.00 equals the \$89,300.00 yet to be paid by Petitioner for the Cure.
 - C. The \$ 510,700.00 OT deposit amount, previously withdrawn by OWNERS, less taxes paid to Broward County, if any, shall be placed by OWNERS into escrow along with the \$ 89,300.00, as described in Paragraph 2-B, above, within ten (10) days of receipt of the additional amount.
 - D. Forty-Four Thousand Twenty-Two Dollars (\$44,022) is due for attorney fees, as set forth in paragraph numbered 7 below.

4. The OWNERS shall exercise due diligence in pursuing approval and implementation of the Site Plan, and will take reasonable steps so as to minimize disruption to the site by the implementation of the Site Plan, and in the context of the anticipated road project.
 - A. Settlement is voidable by OWNERS if the Town of Davie and other regulatory bodies do not provide the necessary approval of the Site Plan, as well as the issuance of permits necessary to implement the Site Plan, or if they would provide such approval or permits, but only with substantial modifications of the Site Plan, except as provided in paragraph (A)(2), below.
 1. If costs of implementation of the Site Plan are affected only by *non-substantial* modifications, such that the settlement would not be voidable, then, as detailed above in Paragraph 2-B-2 and elsewhere in this Order, costs of such non-substantial modifications would be borne by OWNERS.
 2. If the Town of Davie approves the conversion of restaurant space to retail space, then, any changes to the building required by the Town of Davie for structural repairs, changes or upgrades in order that the conversion be accomplished are to be borne by OWNERS.
 3. In the event the OWNERS choose to void the settlement the Court shall, upon being so advised by motion of the OWNERS or of FDOT, vacate this Judgment.
 - B. Construction of the Site Plan will begin within 30 days of obtaining all necessary permits, or within 30 days of creation of the escrow account for the Cure, whichever occurs later, but will not, at any rate, commence prior to January 29, 2001.

C. The OWNERS shall reimburse to FDOT, from the sums escrowed, the costs of obtaining site plan approval, including consultant fees and any fees charged by the Town of Davie and other regulatory bodies, which are to be charged to the OWNERS and for which complete invoices must be provided to OWNERS. For the services of Carnahan, Proctor, and Cross, Inc., Witkin Design Group, and Salzer and Associates, Inc., reimbursement shall not exceed \$30,000. For the services of Tinter Associates, Inc., reimbursement shall not exceed \$5,000. The hiring of any other consultants in connection with obtaining site plan approval shall be subject to the approval of the OWNERS.

5. This order effectuates a settlement of disputed claims in litigation, based in part on Petitioner's following Agreements and Representations, specifically:

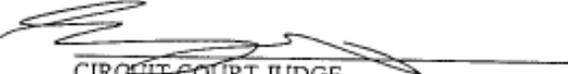
A. Representations to construct its project in accordance with construction plans and specifications for State Project No. 86015-3510, State Road 818 (Griffin Road), as said plans relate to Parcels 105, 740, 806 and their remainder.

1. Copies of a portion of the above-referenced plans are attached hereto as Exhibit B, and are incorporated herein by reference.
2. In the event Petitioner does not construct its project in substantial conformance with the referenced plans, the OWNERS shall have the same remedies as would have been afforded to them had this case been resolved by a jury verdict, with all of said plans and specifications having been made a part of the record at trial.

6. Title to Parcels 105, 740 and 806, as described in the Order of Taking entered in this cause and in Exhibit C hereto, vested in the Petitioner upon the deposit made by Petitioner into the Court Registry in accordance with the Order of Taking. This vesting of title is hereby approved, ratified and confirmed.
7. The OWNERS shall have and recover from the Petitioner the sum of FORTY-FOUR THOUSAND and TWENTY-TWO DOLLARS and NO CENTS (\$ 44,022.00) for Florida Statute § 73.092(1) attorneys fees.
 - A. In the event this judgment is vacated, defense counsel will return the sum of \$44,022.00, together with interest at the annual rate of 10%, to the Petitioner, within thirty (30) days of receipt by defense counsel of the order vacating.
 1. If defense counsel are late in returning this amount to the Petitioner, Petitioner may withhold sums for attorneys fees which may then be due to Brigham Moore LLP in other cases, up to the same amount due for this case, until the payment is made.
8. This court retains jurisdiction over costs, apportionment, Florida Statute § 73.092(2) attorney fees, Florida Statute § 73.092(1) attorney fees in the event this judgment is vacated, enforcement of the terms of the order and, in accordance with Florida Statutes § 73.101, over the disposition of other matters arising from the taking.

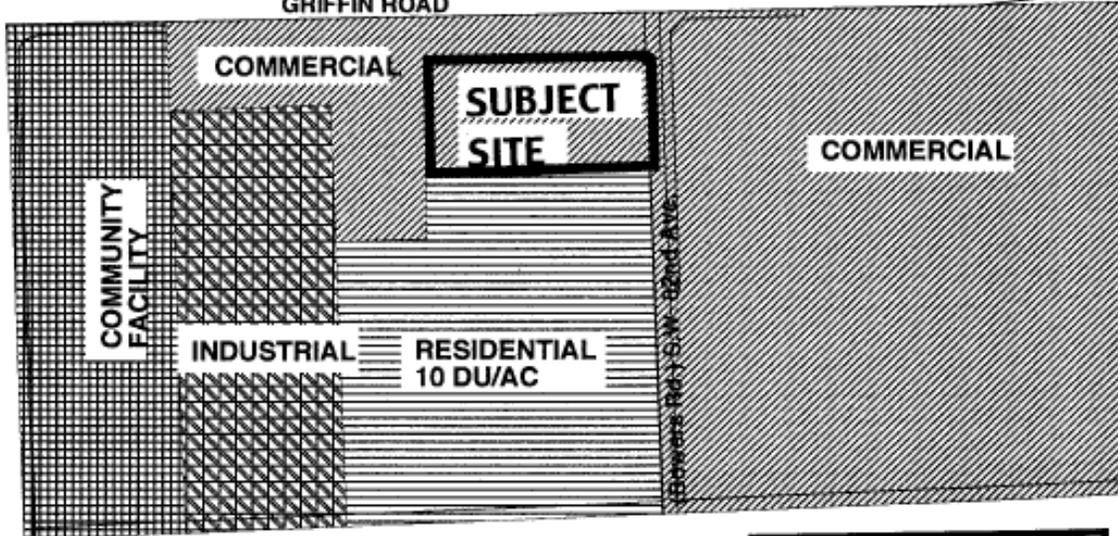
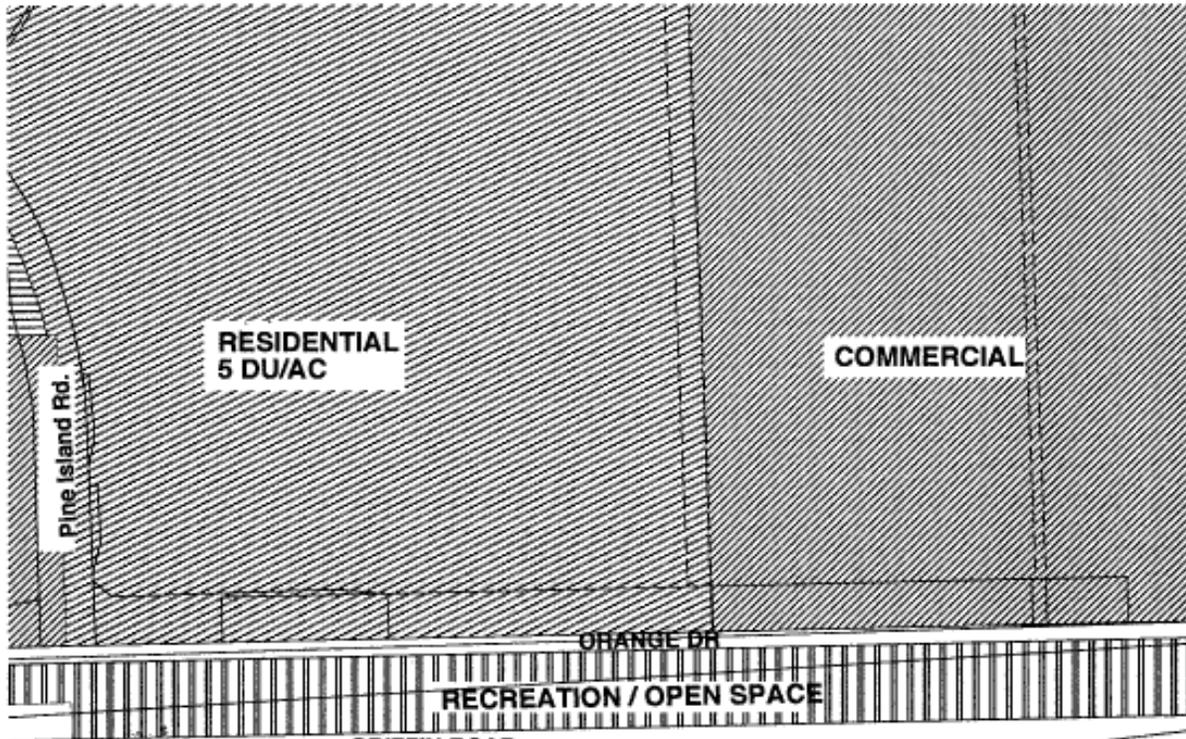
9. This Stipulated Final Judgment, being in the nature of settlement, and the terms thereof, shall not be admissible in evidence against Petitioner or OWNERS in the event the same is vacated pursuant to Paragraph 4(A), above. Furthermore, payment for the items contained in paragraph numbered 1(A)(2)(b), being in the nature of settlement, shall not be construed or used against Petitioner in this or any other proceeding as an admission as to the compensability of such items.
10. Except for claims of apportionment, business damage claims, and fees and costs, the sums paid hereunder are in full and final settlement of all claims arising from the taking of Parcels 105, 740 and 806.

DONE and ORDERED this 12 day of December, 2000 by:


CIRCUIT COURT JUDGE

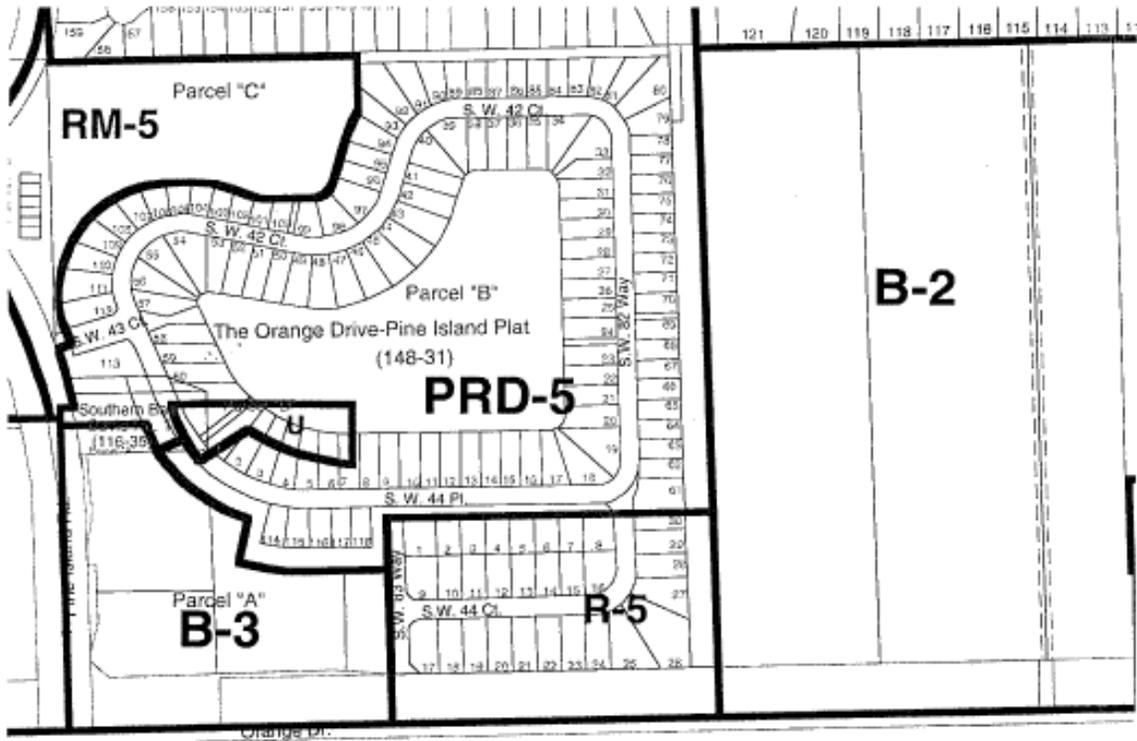
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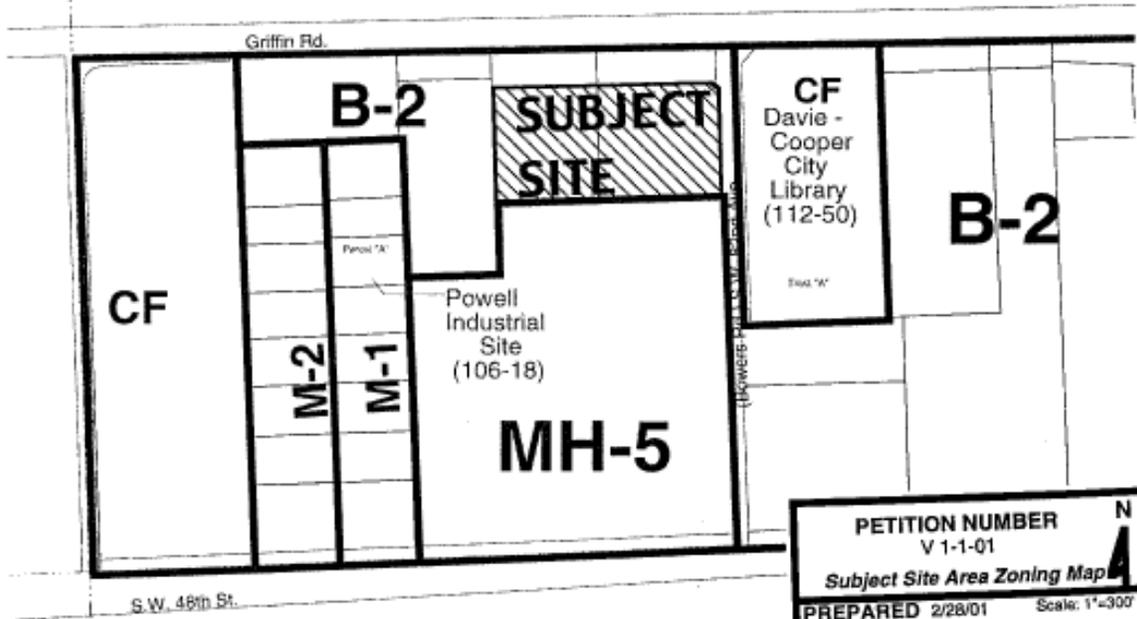


S.W. 48th St.

PETITION NUMBER V 1-1-01 <i>Subject Site Area</i> <i>Future Land Use Plan</i>		N 4
PREPARED 2/28/01 BY THE PLANNING & ZONING DIVISION		
		Scale: 1"=300'



S. New River Canal



PETITION NUMBER
 V 1-1-01
Subject Site Area Zoning Map

PREPARED 2/28/01 **Scale:** 1"=300'
BY THE PLANNING & ZONING DIVISION

