

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

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

SUBJECT: Quasi Judicial Hearing: Variance
V 4-2-02 Ghasem Khavanin/Aly Dhanani, 6190 SW 56 Street
Generally located on the south side of SW 56 Street, approximately 400 feet west of SW 61 Avenue, within the Chemin Des Palms subdivision.

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM:

V 4-2-02 Khavanin/Dhanani, 6190 SW 56 Street (R-2)

REPORT IN BRIEF:

The petitioner has requested to reduce the subject site's minimum front yard from 30' to 24.51' and the minimum side yard from 15' to 14.89' in order to allow the recently constructed single family residence to remain as it was built.

The intent of the 30' front yard and 15' side yard setback required by the Land Development Code is for the consistent placement of structures and to maintain openness provided by the minimum separation between structures, within the R-2, Low Density Dwelling District. The plat was approved with the western property line shown as 161.64' in length. The plat, as recorded in the records of Broward County, shows the western property line correctly as 156.82' in length. The site plan, as approved, shows the western property line 161.64' in length. The structure was built according to the site plan, and because the dimension of the western boundary is actually 4.82' shorter than was thought when it was constructed, the structure encroaches the front setback 5.49'. The 0.11' encroachment in the side setback is an insignificant construction error.

PREVIOUS ACTIONS: None

CONCURRENCES: At the June 12, 2002, meeting of the Planning and Zoning Board, Vice-Chair Bender made a motion, seconded by Mr. Waitkus to approve (Motion carried 5-0).

FISCAL IMPACT: None

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

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

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

APPLICANT INFORMATION

Owner:

Name: Aly Dhanani
Address: 3313 SE 2 Street
City: Pompano Beach, FL 33062
Phone: (954)444-2629

Agent:

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

BACKGROUND INFORMATION

Date of Notification: June 5, 2002 **Number of Notifications:** 58

Application History: No deferrals have been requested.

Application Request: Variance **FROM:** Section 12-81A of the Land Development Code which requires 30 foot minimum front yards and 15 foot minimum side yards in the R-2, Low Density Dwelling District; **TO:** reduce the minimum front yard to 24.51 feet and the minimum side yard to 14.89 feet in order to allow the recently constructed single family residence to remain as it was built.

Address/Location: 6190 SW 56 Street/Generally located on the south side of SW 56 Street, approximately 400 feet west of SW 61 Avenue, within the Chemin Des Palms subdivision.

Future Land Use Plan Designation: Special Classification Residential (2 DU/AC)

Zoning: R-2, Low Density Dwelling District

Existing Use: Single family dwelling

Proposed Use: same

Parcel Size: 0.4 acres (17,500 square feet)

Surrounding Land

Surrounding Uses:

North: Single family dwelling
South: Single family dwelling
East: Single family dwelling
West: Single family dwelling

Use Plan Designation:

Special Classification Residential (2 DU/AC)
Special Classification Residential (2 DU/AC)
Special Classification Residential (2 DU/AC)
Special Classification Residential (2)

DU/AC)

Surrounding Zoning:

North: R-2, Low Density Dwelling District
South: R-2, Low Density Dwelling District
East: R-2, Low Density Dwelling District
West: R-2, Low Density Dwelling District

ZONING HISTORY

Related Zoning History: None

Previous Request on same property:

The plat, P 4-1-94 Chemin Des Palms, was approved on October 5, 1994.

The site plan, SP 2-2-95 Chemin Des Palms, was approved on March 15, 1995.

APPLICATION DETAILS

The petitioner has requested to reduce the subject site's minimum front yard from 30' to 24.51' and the minimum side yard from 15' to 14.89' in order to allow the recently constructed single family residence to remain as it was built.

Applicable Codes and Ordinances

Section 12-81A of the Land Development Code requires 30 foot minimum front yards and 15 foot minimum side yards in the R-2, Low Density Dwelling District.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 9. This Planning Area is south of Griffin Road, generally north of Stirling Road, east of SW 76 Avenue and west of the Florida Turnpike. This area is predominantly agricultural in nature with scattered low-density single-family residential development. Low profile commercial development lines the Griffin Road, Davie Road, and Stirling Road corridors.

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

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

Staff Analysis

The intent of the 30' front yard and 15' side yard setback required by the Land Development

Code is for the consistent placement of structures and to maintain openness provided by the minimum separation between structures, within the R-2, Low Density Dwelling District. The plat was approved with the western property line shown as 161.64' in length. The plat, as recorded in the records of Broward County, shows the western property line correctly as 156.82' in length. The site plan, as approved, shows the western property line 161.64' in length. The structure was built according to the site plan, and because the dimension of the western boundary is actually 4.82' shorter than was thought when it was constructed, the structure encroaches the front setback 5.49'. The 0.11' encroachment in the side setback is an insignificant construction error.

Findings of Fact

Variances:

Section 12-309(B)(1):

The following findings of facts apply to the variance request.

(a) There are special circumstances or conditions applying to the land or building for which the variances are 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 self-created by any person having an interest in the property.

The subject site has special circumstances because the location in which the residence has been constructed is a direct result of an error on the approved site plan. These circumstances are unique and do not apply to buildings in the same district. Strict application of the Code would deprive the applicant reasonable use of the building, as it is unreasonable to require modification of the structure since it has been built according to the approved site plan. The hardship is self-created, because while the site plan was approved, the applicant is ultimately responsible for providing correct and accurate information.

(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.

Staff finds that the variance is necessary to allow the property owner reasonable use of the building and the variance is the minimum needed. The structure was constructed in accordance with the approved site plan. It would be unreasonable to require the owner to modify the structure because of the 5.49' encroachment in the front setback. The 0.11' reduction in the side yard is insignificant.

(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.

An inspection of the site has been conducted and staff finds that granting of the request will not have a negative impact on the surround properties.

Staff Recommendation

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

Planning & Zoning Board Recommendation

At the June 12, 2002, meeting of the Planning and Zoning Board, Vice-Chair Bender made a motion, seconded by Mr. Waitkus to approve (Motion carried 5-0).

Exhibits

1. Justification letter
2. Survey
3. Plat as approved
4. Plat as recorded
5. Site Plan as approved
6. Land Use Map
7. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

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

Date: April 10, 2002

THIS IS A DIRECT RESULT OF ERROR IN THE RECORDED PLAT, UNRECORDED PLAT AND THE SITE PLAN. RECORDED PLAT SHOWN WESTERN PROPERTY LINE AS 156.82' WHERE UNRECORDED AND SITE PLAN SHOWN 161.64' IN LENGTH.

THIS VARIANCE IS NECESSARY FOR REASONABLE USE OF THE LAND AND IT IS A MINIMUM VARIANCE THAT WILL ACCOMPLISH THIS PURPOSE AND AT THIS STAGE OF CONSTRUCTION IT WOULD BE UNREASONABLE TO CORRECT.

SECTION 12-81 TABLE 12-81A REQUIRED SIDE SET BACK TO BE 15' WHERE WE HAVE A SET BACK OF 14.89' ALONG EASTERN PROPERTY LINE.

ALONG EASTERN 15' OF GARAGE FRONT SET BACK IS REDUCED FROM 30' TO 24.51 AND 11' OF BUILDING EAST OF GARAGE IS LOCATED 27.78' FROM PROPERTY LINE INSTEAD OF 30'.

MAXIMUM OF 5.49' IN FRONT IS NOT NOTICEABLE AND WILL NOT HAVE NEGATIVE IMPACT OR INJUNOUS TO THE NEIGHBORHOOD OR OTHERWISE DETERMENTAL TO THE PUBLIC WELFARE.



CURVE	CENTRAL ANGLE	CHORD BEARING	RAIUS	ARC	LC
CURVE 1	27°22'48"	S 27°42'47" E	291.56	22.30	22.70
CURVE 2	27°18'25"	S 87°31'11" E	284.56	104.28	123.76



LEGAL DESCRIPTION

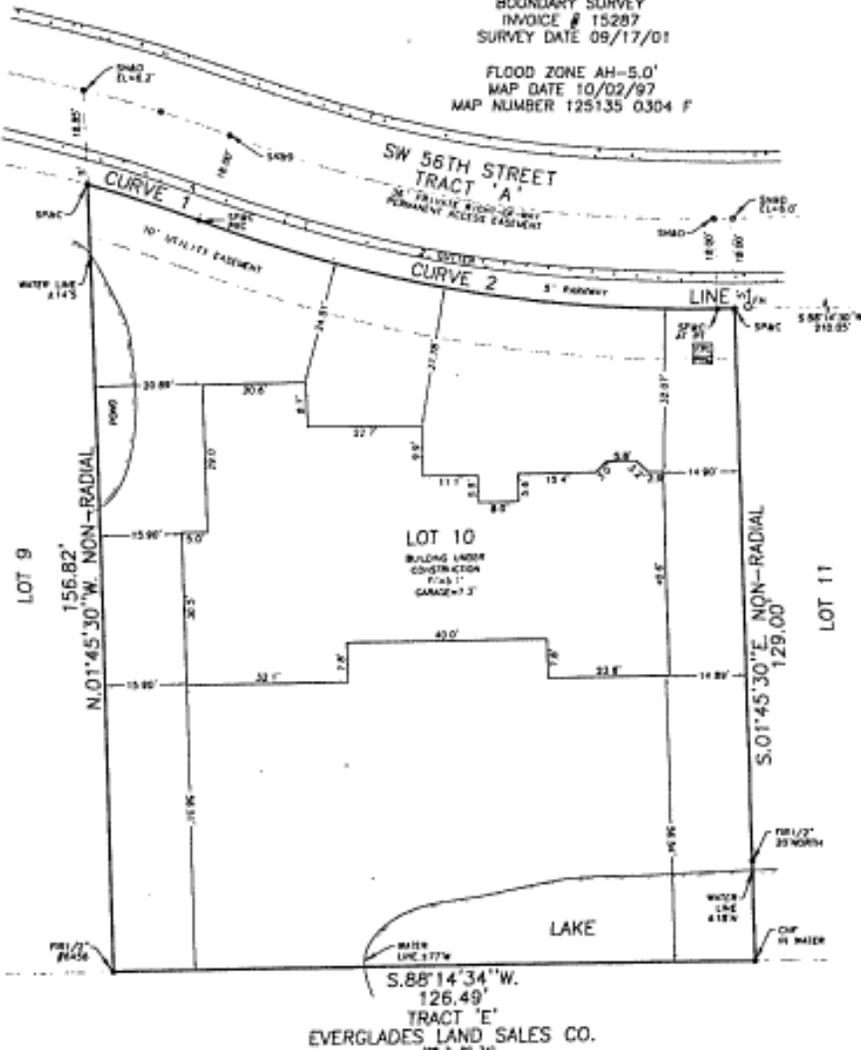
LOT 10, CHEMIN DES PALMS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 160, PAGE 50, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

CERTIFIED TO:
SUNSHINE STATE BUILDERS

PROPERTY ADDRESS
BUILDING UNDER CONSTRUCTION
SW 56TH STREET & SW 61ST AVENUE

BOUNDARY SURVEY
INVOICE # 15287
SURVEY DATE 09/17/01

FLOOD ZONE AH-5.0'
MAP DATE 10/02/97
MAP NUMBER 125135 0304 F



EVERGLADES LAND SALES CO.
(PB 2, PG 34)

- NOTES**
1. BASIS OF BEARINGS AS INDICATED ON SKETCH.
 2. LEGAL DESCRIPTION PROVIDED BY CLIENT.
 3. THE LANDS SHOWN HEREON WERE NOT ABSTRACTED BY THIS OFFICE FOR EASEMENTS, RIGHT-OF-WAY, DIMENSIONS OR OTHER INSTRUMENTS OF RECORD.
 4. UNDERGROUND OR INTERIOR PORTIONS OF FOOTINGS, FOUNDATIONS, WALLS OR OTHER NON-VISIBLE IMPROVEMENTS WERE NOT LOCATED.
 5. ELEVATIONS ARE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 UNLESS OTHERWISE SHOWN.
 6. FENCE TIES ARE TO THE CENTERLINE OF FENCE. WALL TIES ARE TO THE FACE OF WALL.
 7. IN SOME INSTANCES GRAPHIC REPRESENTATIONS HAVE BEEN SUBMITTED TO MORE CLEARLY ILLUSTRATE THE RELATIONSHIP BETWEEN PHYSICAL IMPROVEMENTS AND/OR LOT LINES. IN ALL CASES DIMENSIONS SHALL CONTROL THE LOCATION OF THE IMPROVEMENTS OVER SCALED POSITIONS.
 8. THE DIMENSIONS AND DIRECTIONS SHOWN HEREON ARE IN SUBSTANTIAL AGREEMENT WITH RECORD VALUES UNLESS OTHERWISE NOTED.
 9. PARTY WALLS ARE CENTERED ON PROPERTY LINE UNLESS OTHERWISE NOTED.

Atlantic Coast
SURVEYING, INC.
LB NO. 5495

5615 S. UNIVERSITY DR. DAVIE (954)252-5254
DAVIE, FLORIDA 33328 BOCA (561)488-8626
FAX (954)252-5358
©1998 ATLANTIC COAST SURVEYING INC.

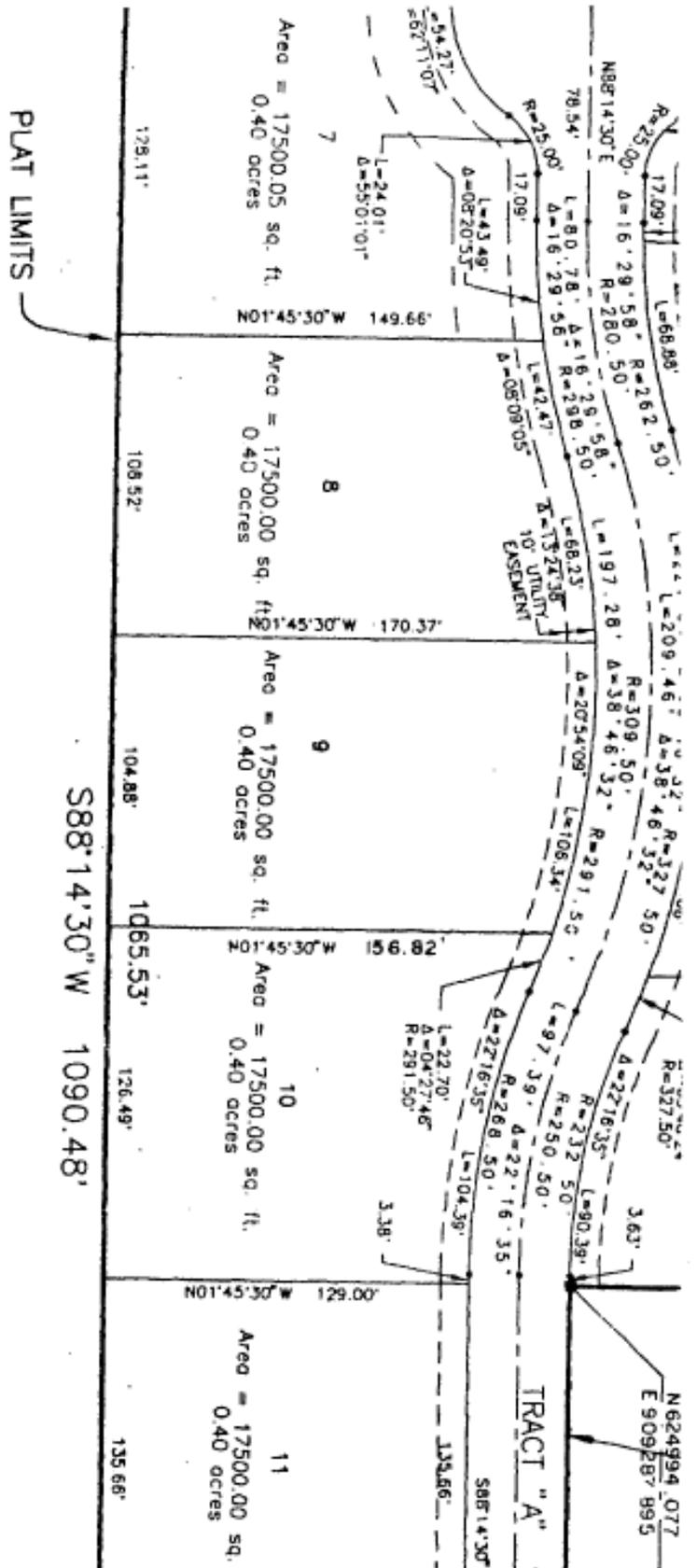
- | | | |
|-----------------------|-----------------------|----------------------|
| —●— CENTERLINE | ▨ CONCRETE BLOCK WALL | ⊗ ADJACENT WELL |
| —●— WOOD FENCE | —●— OVERHEAD WIRES | ⊗ CABLE JUNCTION BOX |
| —X— METAL FENCE | —●— CONCRETE FENCE | ⊗ POWER/LIGHT POLE |
| —○— CONC./CONG. BLOCK | —●— GUY ANCHOR | ⊗ WATER METER |
| —○— BRICK | —●— CENTRAL ANGLE | ⊗ FFWL/SBT PAD |

ABBREVIATIONS (SEE BACK OF THIS PAGE)

I HEREBY CERTIFY THAT THE SURVEY REPRESENTED HEREON MEETS THE REQUISITE REQUIREMENTS OF THE FLORIDA STATUTES AS SET FORTH IN CHAPTER 820, § 4 OF THE FLORIDA ADMINISTRATIVE CODE AND THE RULES OF PROFESSIONAL SURVEYORS AND SUPPORT PURSUANT TO SECTION 473.007 OF THE FLORIDA STATUTES.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

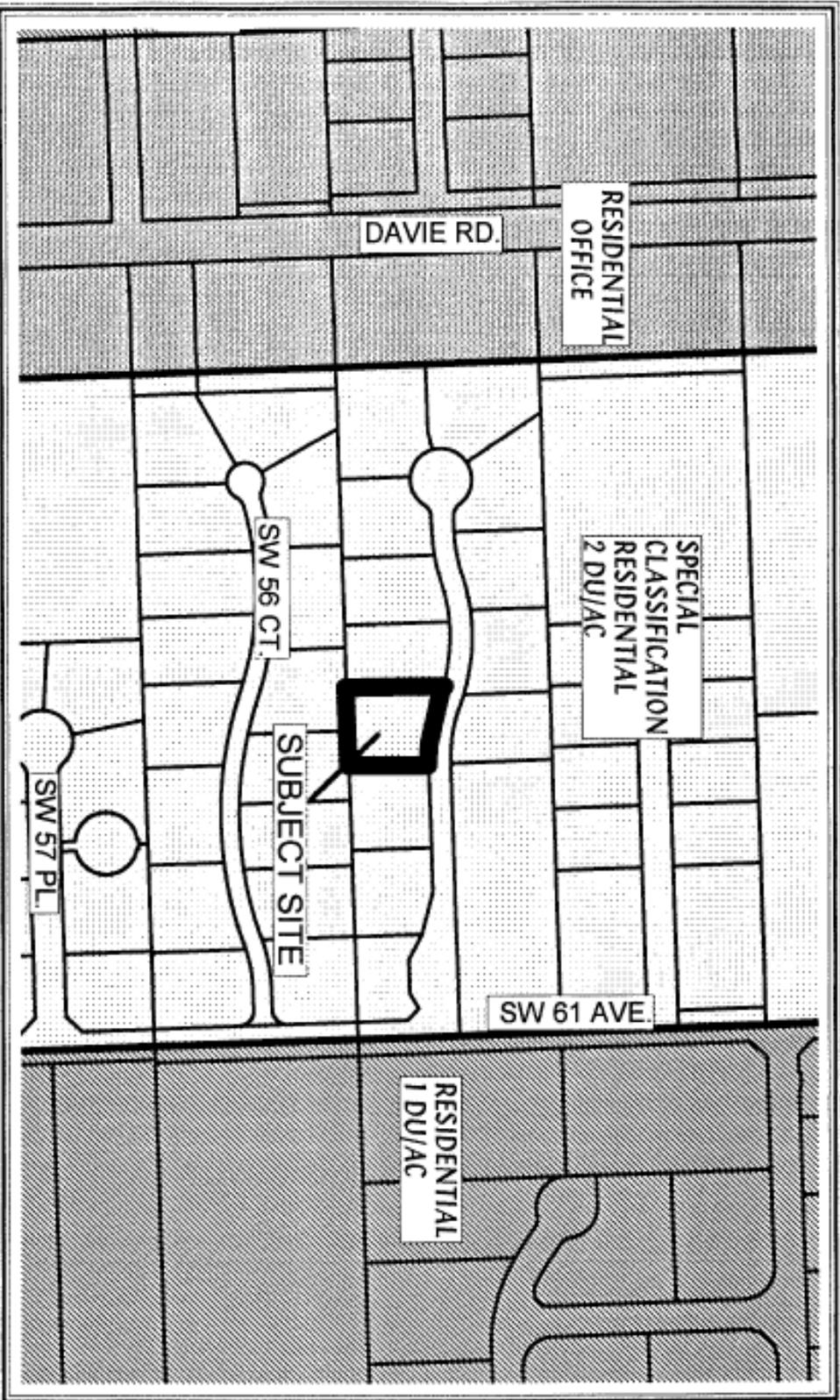
By: Paul J. Schwall DATE 09/25/01 KRG
PAUL J. SCHWALL PROFESSIONAL LAND SURVEYOR FLORIDA CERTIFICATION NO. 8241



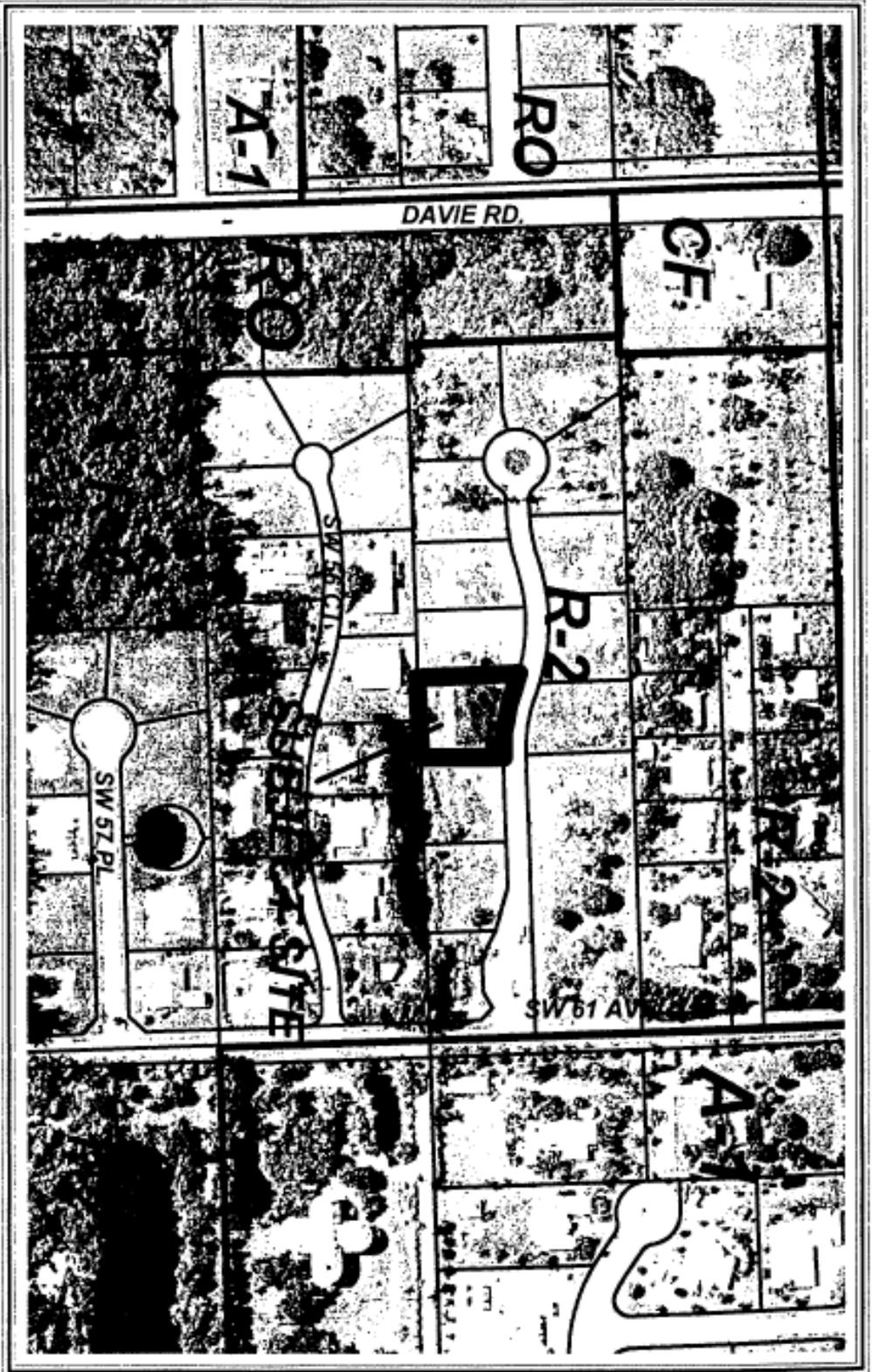
PLAT LIMITS

TRACT 56
 EVERGLADE LAND SALES CO.
 (PB 2, PG 34, DCR)

PIAT P 4-1-94 AS
 RECEIVED in
 Broward County



PETITION NUMBER: V 4-2-02
 FUTURE LAND USE MAP
 Date: Flown: January, 2001
 Scale: 1" = 200'
 Planning & Zoning Division - GIS
 Prepared 5/28/02



PETITION NUMBER: V 4-2-02

Zoning and Aerial Map
 Date: Flown: January, 2001
 Scale: 1" = 200'
 Planning & Zoning Division - GIS
 Prepared 5/28/02