

# TOWN OF DAVIE

## TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101  
Prepared by: Roberta Moore, Planner I

**SUBJECT:** Variance, V 1-3-04, Louis and Madeline Woodlief, 13800 SW 37 Court/Generally located approximately 1,434 feet east of SW 142 Avenue on the south side of SW 37 Court.

**AFFECTED DISTRICT:** District 4

**TITLE OF AGENDA ITEM:** V 1-3-04, Louis and Madeline Woodlief, 13800 SW 37 Court (R-1)

### REPORT IN BRIEF:

The variance application is to reduce the minimum lot area of a parcel zoned R-1, Estate Dwelling District from 35,000 square feet to 29,850 square feet. The applicant is requesting the variance in order to allow a single family house to be built on the property. The property is part of an unrecorded Sunnyland Farms plat. Houses within this neighborhood have been built utilizing two or three parcels which would total 29,850 square feet to 44,775 square feet for their lot sizes.

Within the Sunnyland Farms subdivision, 56 homes are currently built. There are currently three vacant parcels within the neighborhood. Two of these parcels could be built on utilizing 29,850 square feet for lot area. The third parcel is approximately 15,000 square feet and considered an unbuildable lot.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** At the March 10, 2004, Planning and Zoning Board meeting, Ms. Lee made a motion, seconded by Mr. Stevens, to approve. (Motion carried 4-1, with Vice-Chair Turin opposing).

**FISCAL IMPACT:** None

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

**Attachment(s):** Planning Report, Justification, Survey, Land Use Map, Zoning and Aerial Map

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

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**Applicant Information**

**Owner/Agent:**

**Name:** Louis H. and Madeline Woodlief  
**Address:** 13800 SW 37 Court  
**City:** Davie, Florida 33330  
**Phone:** (954) 370-3570

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**Background Information**

**Date of Notification:** February 25, 2004      **Number of Notifications:** 103

**Application History:** No deferrals have been requested.

**Application Request:** Variance

**FROM:** Section 12-81(A) of the Land Development Code which requires a minimum lot area of 35,000 square feet in the R-1, Estate Dwelling District. **TO:** Reduce the minimum lot area to 29,850 square feet.

**Address/Location:** 13800 SW 37 Court/Generally located approximately 1,434 feet east of SW 142 Avenue on the south side of SW 37 Court.

**Future Land Use Plan Designation:** R-1, Residential 1 DU/AC

**Zoning:** R-1, Estate Dwelling District

**Existing/Proposed Use:** Vacant

**Parcel Size:** 0.68 acres (29,850 square feet)

**Surrounding Uses:**

**North:** Residential single family home  
**South:** Residential single family home  
**East:** Residential single family home  
**West:** Residential single family home

**Surrounding Land**

**Use Plan Designation:**

R-1, Residential 1 DU/AC  
R-1, Residential 1 DU/AC  
R-1, Residential 1 DU/AC  
R-1, Residential 1 DU/AC

**Surrounding Zoning:**

**North:** R-1, Estate Dwelling District  
**South:** E, Estate Dwelling District  
**East:** A-1, Agricultural District  
**West:** RS, Recreation / Open Space District

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**Zoning History**

The property is part of the unrecorded Sunnyland Farms plat.

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**Application Details**

The applicant would like to build a single family house on the property however the lot does not meet the minimum lot size that is required by Section 12-81(A). Section 12-81(A) states the minimum square footage required for parcels zoned R-1, Estate Dwelling District is 35,000 square feet. The variance application is to allow a single family home to be build on a 29,850 square foot lot.

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**Applicable Codes and Ordinances**

Section 12-81(A) of the Land Development Code which requires a minimum lot area of 35,000 square feet an R-1, Estate Dwelling District.

Section 12-309, Review criteria for variances.

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**Comprehensive Plan Considerations**

**Planning Area:** The subject property falls within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 113.

**Applicable Goals, Objectives & Policies:** *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3:* Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

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**Staff Analysis**

In the R-1, Estate Dwelling District, the minimum lot area is 35,000 square feet. The parcel is currently vacant and this variance will allow a single family house to be built on the lot.

The subject lot area is 29,850 square feet whereas 35,000 square feet of lot area is required by code. The property is part of an unrecorded Sunnyland Farms plat. Houses within this neighborhood have been built utilizing two or three parcels which would total 29,850 square feet to 44,775 square feet for their lot sizes. Previous Town policy allowed the approval of building permits for single family houses that were located within an unrecorded plat as if they were actually recorded thus allowing these existing single family houses building permits. The variance application is to reduce the required 35,000 square feet minimum lot area. The parcels to the north, east, south and west of the parcel are all currently built as single family houses.

Within the Sunnyland Farms subdivision, 56 homes are currently built. There are currently three vacant parcels within the neighborhood. Two of these parcels could be built on utilizing 29,850 square feet for lot area. The third parcel is approximately 15,000 square feet and considered an unbuildable lot.

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## Findings of Fact

### **Variances:**

#### **Section 12-309(B) (1):**

**The following findings of facts apply to the variance request:**

- (a) There may be 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 a legal non-conforming lot with a lot size of 29,850 square feet while the minimum required lot area for the R-1 zoning district is 35,000 square feet. The lot area of 29,850 square feet does not exceed the minimum required lot area of 35,000 square feet. According to the applicant, when he purchased the property he thought he would be able to build on the 29,850 square foot lot because his current home (which is the direct lot to the east) was just built on a 29,850 square foot lot. In addition, previous policy was to approve unrecorded plats as if they were actually recorded.*

and that said circumstance or condition may 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;

*However, this physical constrain does keep the applicant from constructing a single family house. Therefore, the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.*

and the alleged hardship may not be self-created by persons having an interest in the property.

*It is the applicant's intension to build a single family house on the property however the property does not meet the minimum lot area requirement. The alleged hardship may not be considered self-created.*

- (b) Granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested may not be the minimum variance that will accomplish this purpose.

*The applicant can not achieve reasonable use of the land without a variance, and as such the variance is the minimum needed. A variance would be required for a single family house to be built on the property.*

- (c) Granting of the requested variances may be in harmony with the general purpose and intent of this chapter and may not be injurious to the neighborhood or otherwise detrimental to the public welfare.

*The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the minimum lot area to be reduced to 29,850 square feet will not be detrimental to the neighborhood since a number of existing lots appear to have a lot area of 29,850 square feet. Therefore, granting of the requested variance may not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

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### **Staff Recommendation**

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

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### **Planning and Zoning Board Recommendation**

At the March 10, 2004, Planning and Zoning Board meeting, Ms. Lee made a motion, seconded by Mr. Stevens, to approve. (Motion carried 4-1, with Vice-Chair Turin opposing).

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### **Exhibits**

1. Justification
2. Survey
3. Letter from Planning and Zoning Division
4. Land Use Map
5. Zoning and Aerial Map

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

HARDSHIP - Land originally purchased with the intent for one of our sons to build on.

Shortly after purchasing our son got a promotion and transferred to Palm Coast.

REcently, it was brought to our attention we need a variance for this property. We do have a note by CASEY LEE, dated February 23, 2000. written on a previous permit #00-162. (copy attached).

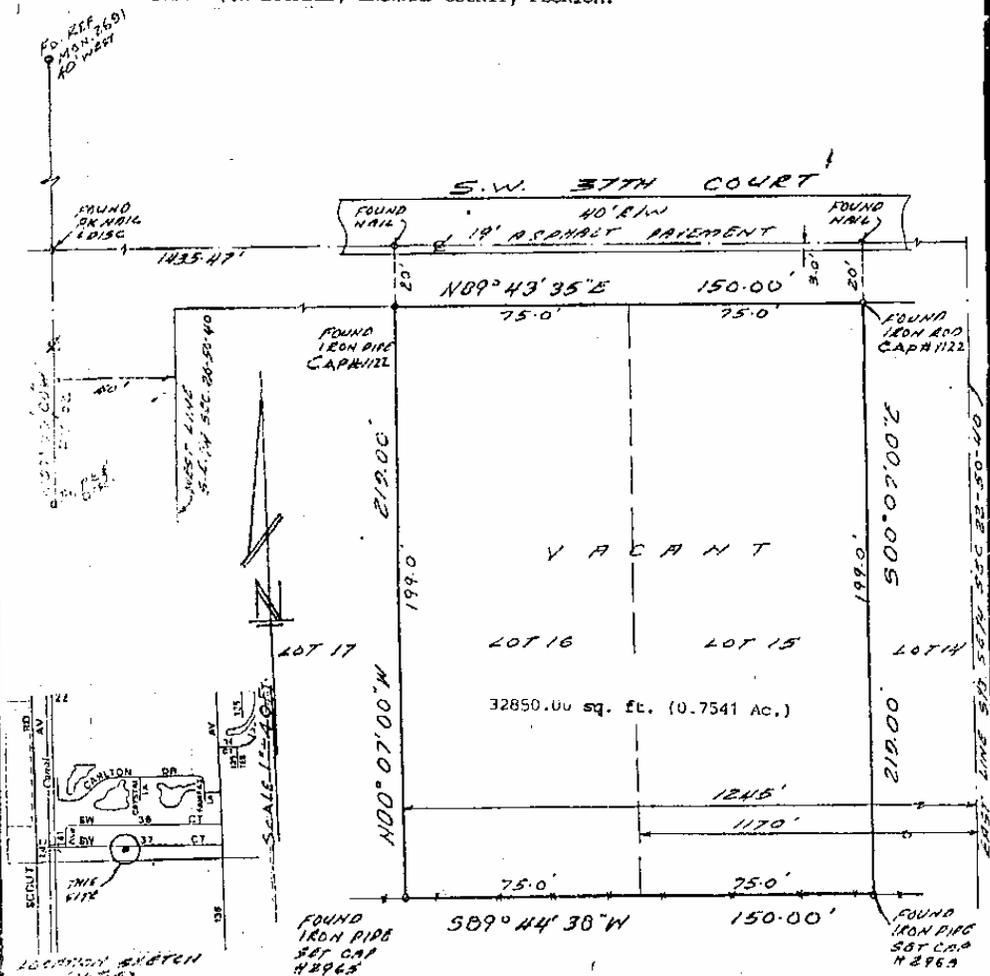
Council person. JUDY PAUL. in my district is backing and supporting this request.

Roberta Moore, with the DEPT. OF PLANNING AND ZONING - is also supporting this variance - per attached copy of letter dated Janucay 21, 1004.

LEGAL DESCRIPTION

THE WEST 75.00 FEET OF THE EAST 1170 FEET OF THE SOUTH 219 FEET OF THE SOUTH ONE-THIRD (S 1/3) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 22, TOWNSHIP 50 SOUTH, RANGE 40 EAST, BROWARD COUNTY, FLORIDA, TOGETHER WITH THE WEST 75.00 FEET OF THE EAST 1245 FEET OF THE SOUTH 219 FEET OF THE SAID SOUTH ONE-THIRD (S 1/3) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 22, TOWNSHIP 50 SOUTH, RANGE 40 EAST, BROWARD COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED AS LOTS 15 AND 16 SUNNYLAND FARMS (UNRECORDED) BROWARD COUNTY, FLORIDA.



I hereby certify that this survey meets the minimum technical standards set forth by the Florida Board of Professional Land Surveyors in chapter 21HH-6 Florida Administrative Code, pursuant to Section 472.027 Florida Statutes. There are no above ground encroachments other than those shown thereon subject to qualifications noted hereon.

<p>NOTES</p> <p>The lands shown hereon were not abstracted by the state and are subject to rights of way easement or other similar matter of records beyond that shown on plat. Such information should be obtained through appropriate title verification.</p>	<p>NOT VALID UNLESS IMPRINTED WITH AN EMBOSSED SEAL</p> <p>Fl. Reg. Surveyor 2965</p>	<p><b>JOSEPH A. POLKOWSKI, P.L.S.</b> Land Surveyor 11169 South Terradas Lane Boca Raton, Florida (407) 832-8622</p> <p>SCALE: 1"=40'      Drawn: R.S. DATE: 12/14/94</p>
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**DEVELOPMENT SERVICES DEPARTMENT**

Administration 797-1101  
Planning & Zoning 797-1103  
Building & Occupational Licensing 797-1111  
Code Compliance 797-1121  
Engineering 797-1113

**TOWN OF DAVIE** 6591 ORANGE DRIVE, DAVIE, FLORIDA 33314-3399 (954) 797-1103

January 21, 2004

Mr. and Mrs. Louis Woodlief  
13800 SW 37 Court  
Davie, Florida 33330

RE: Vacant Parcels - Folio numbers 504022020150 and 504022020160

Dear Mr. and Mrs. Woodlief :

This letter is in regards to your vacant parcels with the above mentioned folio numbers. Staff has determined based upon research conducted, that the two parcels are a legal lot of record.

Section 12-33 (N) of the Town of Davie Land Development Code defines Existing Lots of Record. This section states:

*"In all residential districts where a lot of record existed at the time the ordinance from which this section was derived was adopted, and such lot of record is occupied by a single-family dwelling, duplex dwelling or mobile home that adhered to all existing requirements of the zoning district classification in effect at the time of construction, such lot shall enjoy a vested right in and to permitted setbacks existing under zoning district classification regulations at the time of construction. Where such conditions exist in present platted or recorded or unrecorded areas that strict conformance with plot width, depth, area or yard requirements causes unnecessary difficulty in the practical utilization of a corner or interior plot, the town council may make such alterations or deviations in the application of these requirements as is allowed by Article X, Division 2."*

Article X is the section relating to variance requests.

Although the parcels are legal lots of record, the two parcels combined does not meet the required minimum lot area. The property is zoned R-1, Estate Dwelling District. Under the R-1 zoning district, the minimum lot area (in square feet) is 35,000 square feet. The land calculations for each parcel are 14,925 square feet (according to the Broward County Property Appraisers Office). Thus, for both parcels combined, the total lot area is 29,850 square feet.

Based upon this, a variance for the minimum lot area is required in order to allow development to occur on the parcel(s) where 35,000 square feet is required by code. Staff can support the variance request based upon the required criteria for review. However, a request must be filed and approved by Town Council.

Attached, please find a copy of Article X, Division 2 of the Town of Davie Land Development Code.

Please call me at (954) 797-1171 to set up a pre-application meeting.

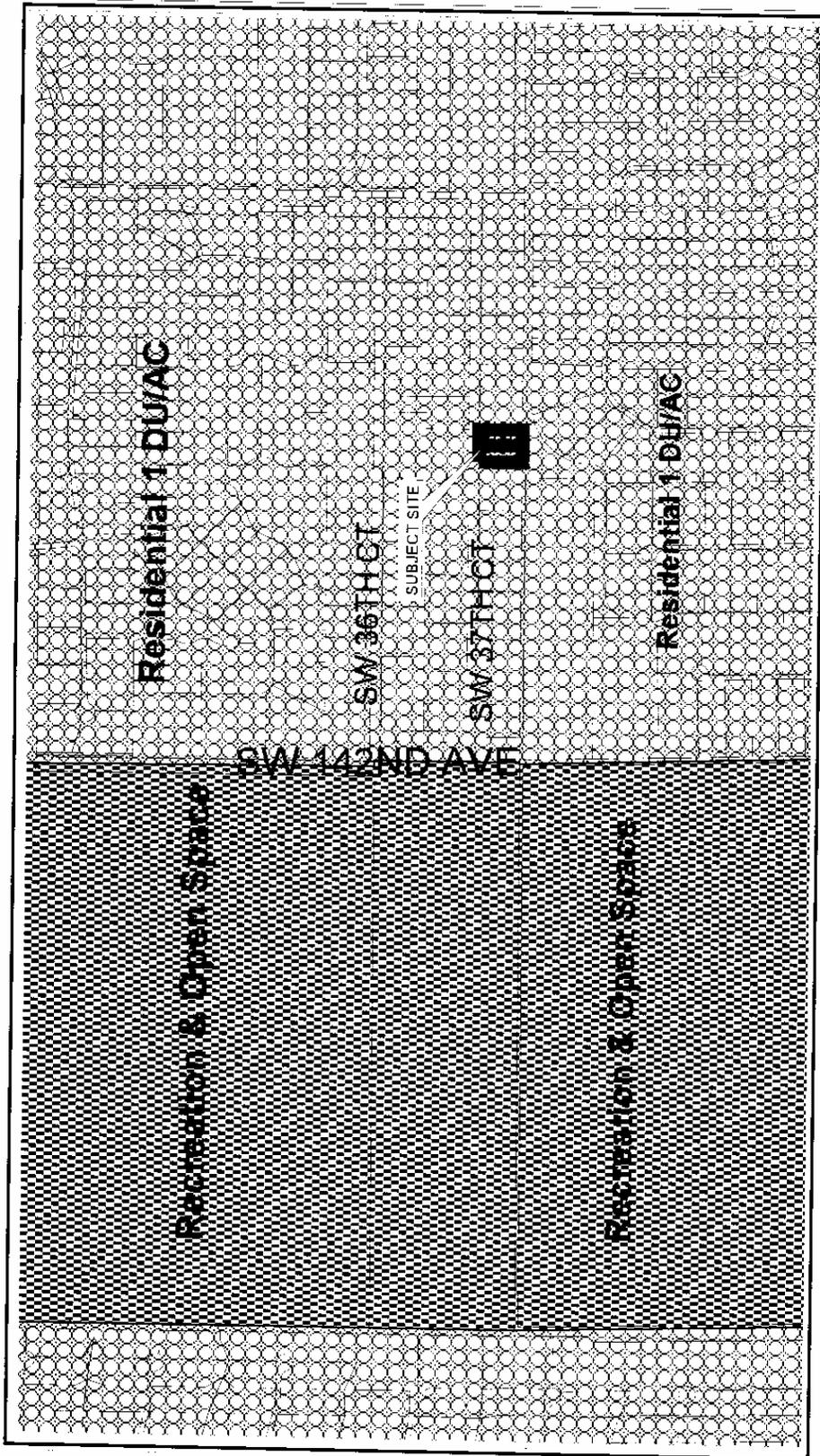
Sincerely,

Roberta Moore  
Planner I  
Town of Davie  
Development Services Department  
Planning and Zoning Division

PZC 01-06-04

Attachments: Article X, Division 2 of the Town of Davie Land Development Code

cc: Mark Kutney, AICP, Development Services Director  
Fernando Leiva, AICP, Planning and Zoning Manager  
Marcie Nolan, AICP, Planning Supervisor



Date Flown:  
12/31/00



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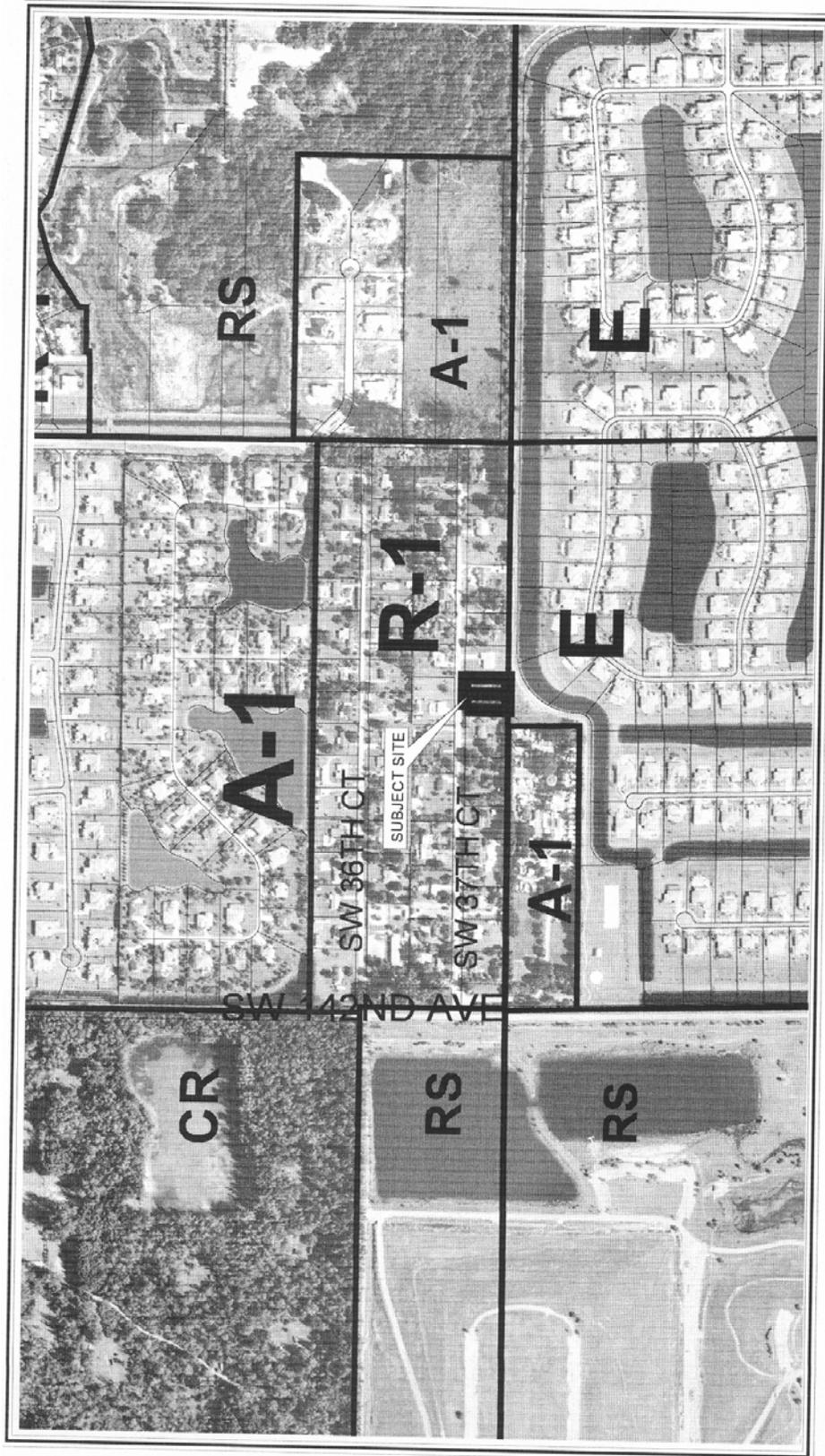


Planning & Zoning Division - GIS



**VARIANCE**  
**V 1-3-04**  
**Future Land Use Map**

Prepared By: ikm  
Date Prepared: 2-23-04



Date Flown:  
12/31/00



500 0 500 Feet

Planning & Zoning Division - GIS



**VARIANCE**  
**V 1-3-04**  
**Zoning and Aerial Map**

Prepared By: rkm  
Date Prepared: 2-23-04

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