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: David M. Abramson, Planner II

SUBJECT: Quasi Judicial Hearing: Variance, V 2-1-05, Ebanks / Generally located on the north side of Southwest 16th Court between Southwest 130th and 132nd Avenue

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: V 2-1-05 / 05-484 / Ebanks

REPORT IN BRIEF: The petitioner is requesting a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum thirty (30') foot side setback from the property line, to reduce the minimum to a twenty-five (25') foot side setback from the property line in the A-1 zoning district.

The subject site is a .81 acres (approx. 35,346 square feet) parcel of land located on the north side of Southwest 16th Court between Southwest 130th and 132nd Avenue. The land use for parcels adjacent to the north, south, east and west of the subject site are all residential 1 dwelling unit per acre. The subject site situated in Davie's Rural Lifestyle neighborhoods.

The petitioner is proposing to build an addition to the existing residential home approximately one thousand eight and fifty-three (1,853) square feet consisting of bedrooms, game room, and a study/library on the north-eastern portion of the existing house. The original building side setbacks for this property were twenty-five (25) feet. The new structural expansion as proposed would maintain the original building side setbacks.

The criteria for approval of a variance require that the petitioner request show no evidence of self-created hardship. In the case of Mr. and Mrs. Ebanks, the property is approximately one-hundred twenty-nine (129) feet in width by two hundred seventy-four (274) feet in depth. The existing house is one-story in height and roughly 2,823 square feet. In review of the survey and residential expansion plan, it proposes a hallway and bedrooms to be placed just outside the eastern existing exterior wall. The current distance from this exterior wall to the property line is approximately thirty-nine (39) feet. The required thirty (30) foot side setback would only permit nine (9) feet of structure width for a hallway and bedrooms. Therefore, staff concluded that the existing residential structure could not accommodate and logically place the expansion without a variance.

Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations had a twenty-five (25) foot side-building setback.

The adopted RLI provides for a side setback dimension of thirty (30) feet creating a sixty (60) foot separation between all new structures. Granting a variance to allow a twenty-five (25) foot side-building setback from the property line would result in a fifty-five (55) foot separation between the two structures.

Thus, a side setback reduction would only directly affect the house to the east, would not harm the existing open space, and would be consistent with the original setback approved for the community.

PREVIOUS ACTIONS: None

CONCURRENCES: At the March 9, 2005 Planning and Zoning Board Meeting, Mr. McLaughlin made a motion, seconded by Vice-Chair Turin, to approve V 2-1-05 Ebanks. (Motion carried 3-0)

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, Expansion Plan, Future Land Use Plan Map, Zoning and Aerial Map

TOWN OF DAVIE

Development Services Department
Planning and Zoning Division
Staff Report and Recommendation

Applicant Information

Owner / Petitioner:
Name: Mark & Sheri Ebanks
Address: 13101 Southwest 16th Court
City: Davie, Florida 33325
Phone: (954) 723-0348

Background Information

Date of Notification: February 2, 2005 **Number of Notifications:** 113

P & Z Board Recommendations: At the March 9, 2005 Planning and Zoning Board Meeting, Mr. McLaughlin made a motion, seconded by Vice-Chair Turin, to approve V 2-1-05 Ebanks. (Motion carried 3-0)

App. History: None

App. Request: Variance **FROM:** Section 12-287 (B) of the Land Development Code, which requires a minimum thirty (30) foot side setback from the property line in the A-1, Agricultural Zoning District. **TO:** Reduce the minimum to a twenty-five (25) foot side setback from the property line.

Address/Location: 13101 Southwest 16th Court / Generally located on the north side of Southwest 16th Court between Southwest 130th and 132nd Avenue

Future Land Use Plan Map: Residential 1 DU / Acre

Existing Zoning: A-1, Agricultural District

Existing Use: Single-Family Residential Dwelling Unit

Parcel Size: .81 acres (approx. 35,346 square feet)

	Surrounding Uses:	**Surrounding Future Land Use Plan Map Designations:**
North:	Single-Family Residential	Residential 1 DU / Acre
South:	Single-Family Residential	Residential 1 DU / Acre
East:	Single-Family Residential	Residential 1 DU / Acre
West:	Single-Family Residential	Residential 1 DU / Acre

Surrounding Zoning:
North: R-1, Estate Dwelling District
South: A-1, Agricultural District
East: A-1, Agricultural District
West: A-1, Agricultural District

Zoning History

Related Zoning History: Records indicate that the existing Future Land Use Plan Map designation and Zoning classification were in place at the time of annexation.

Applicable Codes and Ordinances

§12-309(B)(1) of the Land Development Code, review for variances.

DIVISION 3. RURAL LIFESTYLE REGULATIONS
§12-287 (A) & (B) of the Land Development Code, For the A-1 zoning district, the minimum lot area shall be 35,000 square feet, the minimum lot frontage is 150′, and maximum building coverage is 25%. The building setbacks shall be as follows for the A-1 zoning district: front 40′-50′, side 30′, rear 35′, and 35′ maximum height.

Town Council approved the Rural Lifestyle Regulations on October 16, 2002. At that time, Laurel Oaks North acquired these regulations for all new structures, modifications, and/or additions.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 2. This planning area 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, *Land Use Compatibility and Community Appearance, Policy 17-7*: Adopted land development regulations shall continue to set forth setback or separation regulations landscaping requirements, and minimum open space criteria to enhance living and working environments.

Application Details

The petitioners are requesting a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum thirty (30') foot side setback from the property line, to reduce the minimum to a twenty-five (25') foot side setback from the property line in the A-1 zoning district.

The subject site is a .81 acres (approx. 35,346 square feet) parcel of land approximately one-hundred twenty-nine (129) feet in width by two hundred seventy-four (274) feet in depth located on the north side of Southwest 16th Court between Southwest 130th and 132nd Avenue. The land use for parcels adjacent to the north, south, east and west of the subject site are all residential 1 dwelling unit per acre.

The petitioner is proposing to build an addition to the existing residential home approximately one thousand eight and fifty-three (1,853) square feet consisting of bedrooms, game room, and a study/library on the north-eastern portion of the existing house. The original building side setbacks for this property were twenty-five (25) feet. The new structural expansion as proposed would maintain the original building side setbacks.

According to § 12-81(A) of the Land Development Code, Table of Conventional Single-Family Development Standards, typical A-1, Agricultural Districts are required to provide a thirty foot (30') side setback. This variance is reduce the required thirty foot (30') side setback five (5) feet.

Findings of Fact

Variances:
Section 12-309(B) (1):
The following findings of facts apply to the variance request:

(a) There are no special circumstances or conditions applying to the land or building for which the variance is sought;

The .81 acres (approx. 35,346 square feet) parcel can support an addition to the existing structure that does not require a variance. However, the design of the expansion logically aligns with the previous side setbacks of twenty-five (25) feet.

which circumstances or conditions are not peculiar to such land or building and do apply generally to land or buildings in the same district;

The parcel can continue its development rights and can be used in accordance with the A-1, Agricultural District without a variance.

and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variances are sought;

The parcel can be reasonably used without a variance. The parcel can support an addition in other locations that would not require a variance. However, due to the existing residential layout and site plan, the most sensible place to locate an expansion would be on along the southern portion of the home.

and that alleged hardship is self-created by any person having an interest in the property.

The need for a variance is created by the owner's desire for the expansion to be located on the north-eastern portion of the existing one-story residential building.

(b) The granting of the variance is not 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 applicant can achieve reasonable use of the land without a variance, and as such the variance is not the minimum needed.

(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 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 side-building setback to be reduced from thirty feet (30') to twenty-five feet (25') will not be detrimental to the adjacent properties, as the next closest structure is approximately fifty-five (55) feet from the addition.

Staff Analysis

The criteria for approval of a variance require that the petitioner request show no evidence of self-created hardship. In the case of Mr. and Mrs. Ebanks, the property is approximately one-hundred twenty-nine (129) feet in width by two hundred seventy-four (274) feet in depth. The existing house is one-story in height and roughly 2,823 square feet. In review of the survey and residential expansion plan, it proposes a hallway and bedrooms to be placed just outside the eastern existing exterior wall. The current distance from this exterior wall to the property line is approximately thirty-nine (39) feet. The required thirty (30) foot side setback would only permit nine (9) feet of structure width for a hallway and bedrooms. Therefore, staff concluded that the existing residential structure could not accommodate and logically place the expansion without a variance.

Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations had a twenty-five (25) foot side-building setback.

The adopted RLI provides for a side setback dimension of thirty (30) feet creating a sixty (60) foot separation between all new structures. Granting a variance to allow a twenty-five (25) foot side-building setback from the property line would result in a fifty-five (55) foot separation between the two structures.

Thus, a side setback reduction would only directly affect the house to the east, would not harm the existing open space, and would be consistent with the original setback approved for the community.

Staff Recommendation

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

Planning and Zoning Board Recommendation

At the March 9, 2005 Planning and Zoning Board Meeting, Mr. McLaughlin made a motion, seconded by Vice-Chair Turin, to approve V 2-1-05 Ebanks. (Motion carried 3-0)

Town Council Action

Exhibits

1. Justification
2. Survey
3. Expansion Plan
4. Future Land Use Plan Map
5. Zoning and Aerial Map

Prepared by: _____ Reviewed by: _____

Exhibit 1 (Justification Letter)

Mark L. Ebanks
13101 SW 16th Court
Davie, FL 33325

February 3, 2005

Mr. David Abramson
Planning and Zoning
Town of Davie

Reference: Home of Mr. and Mrs. Mark L. Ebanks at 13101 SW 16 Court, Rural Lifestyle Ordinance Hardship Exemption Request

To Whom It May Concern:

In January 2004 our family of five consisting of three children ages eight, six and three, purchased and moved into our new home in Davie. We were delighted as this new chapter in our lives unfolded as our new home represented the potential environment for what my wife and I had longed for as our "dream home". The home was built in 2001 and reflects a contemporary design and is located on one acre of land in nearby Davie Oaks. We quickly envisioned a home with a few modifications that would represent our vision of an atmosphere that would be ideal for raising our family. Our goal was to create a functioning home that would also be found as a key attraction for the friends of our kids so that we would maximize fruitful relationships over the course of the long term.

Prior to acquisition of this home, we sought advice from general contractors, engineers and architects. These specialist and experts were able to counsel us in regards to how we could optimize the use of our property, and most specifically how to create a complementary addition to the existing home. During these planning sessions, our criteria for the addition was limited to designing a home that would fit within the existing property setbacks and easements, accommodate bedrooms for each of our growing kids, creation of a common game room and a private study/library. As we concluded our planning sessions, we narrowed our home addition to the eastern side of our house that would reside within 25 feet of our property line. The addition would also include an extension of the rear walls and a second floor above the rear family room area.

At this time, we have invested in excess of $10,000, countless man hours in planning and extensive evaluation of alternatives. We believe that our final plan, of which has been submitted for permitting within the Town of Davie at this time (ref. Permit #05-36), represents the minimum addition that is feasible for our intended purpose. The addition to our home will complement our existing setback on the opposite western property line and not encroach on the rear or front property lines. Furthermore, we intend to add lush landscaping and fruit trees to complement the overall property once we have concluded the project. Once completed, our home will also conform to that of neighboring homes that also have similar property setbacks.

Our home currently complies with a 25 foot setback on the western property line and our intent was to maintain this setback with the addition on the eastern side of the property. As residents of Davie, we have also noted that our neighbors to the rear share property dimensions of the same lot size and similar square footage and currently enjoy the benefit of a minimum 25 foot setback. Our request of our city planning committee is to permit our addition as planned by granting us an exemption to the Rural Lifestyle Ordinance that became effective in October 2002. Approval of this urgent request will immediately allow our home project to immediately resume and further mitigate our risk of construction during the hurricane season.

As we seek to raise our family in an increasingly challenging society, it is our hope that we can do everything in our strength to produce responsible adults out of our children. We are committed to creating a healthy environment that represents a haven of security, enjoyment and comfort for our children and their friends so that they will cherish our short time together. In summary, it is our sincere request that you will permit us to resume our home addition plans by providing an exemption to the Rural Lifestyle Ordinance that was passed after our home was built.

Sincerely,

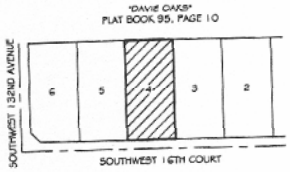
Mark L. Ebanks

Sheri A. Ebanks

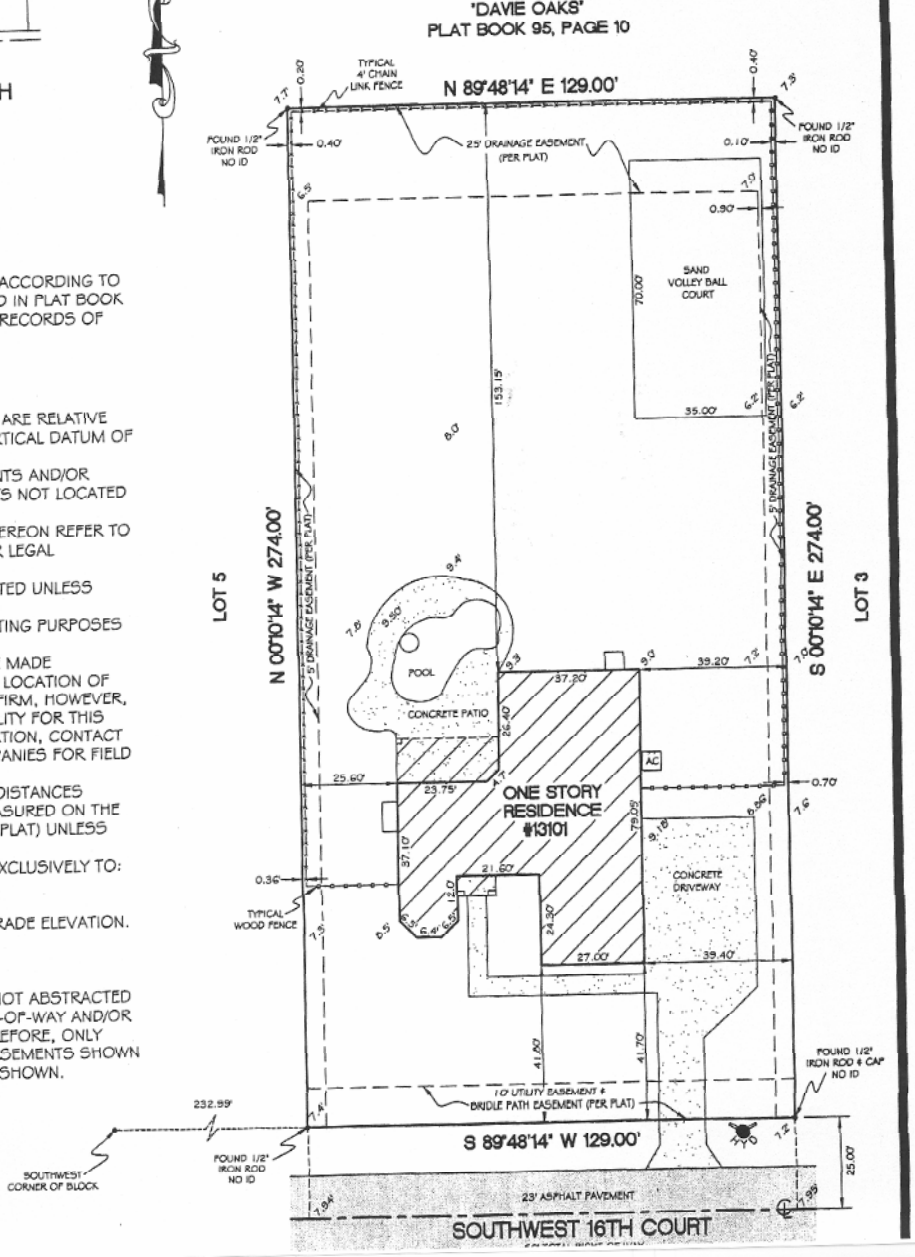
Exhibit 2 (Survey)

BOUNDARY SURVEY
BY
KERI LAND SURVEYING, INC.

1848 NORTH UNIVERSITY DRIVE
PLANTATION, FLORIDA 33322
PHONE (954) 473-8010 FAX (954)473-8020
CERTIFICATE OF AUTHORIZATION #LB7086 E:MAIL: KERILANDSURVEYING@YAHOO.COM



LOCATION SKETCH
NOT TO SCALE



LEGAL DESCRIPTION:

LOT 4 OF "LETO ESTATES NO. 3" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 130 AT PAGE 13 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

NOTES

1) ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NATIONAL GEODETIC VERTICAL DATUM OF 1929.
2) UNDERGROUND IMPROVEMENTS AND/OR UNDERGROUND ENCROACHMENTS NOT LOCATED OR SHOWN.
3) BEARINGS/ANGLES SHOWN HEREON REFER TO THE ABOVE MENTIONED PLAT OR LEGAL DESCRIPTION.
4) ROOF OVERHANG NOT LOCATED UNLESS OTHERWISE SHOWN.
5) THIS SURVEY IS FOR PERMITTING PURPOSES ONLY.
6) REASONABLE EFFORTS WERE MADE REGARDING THE EXISTENCE AND LOCATION OF UNDERGROUND UTILITIES. THIS FIRM, HOWEVER, DOES NOT ACCEPT RESPONSIBILITY FOR THIS INFORMATION. BEFORE EXCAVATION, CONTACT THE APPROPRIATE UTILITY COMPANIES FOR FIELD VERIFICATION.
7) ALL BEARINGS/ANGLES AND DISTANCES SHOWN HEREON ARE BOTH MEASURED ON THE GROUND AND RECORD (AS PER PLAT) UNLESS OTHERWISE SHOWN.
8) THIS SURVEY IS CERTIFIED EXCLUSIVELY TO:
   MARK EBANKS
   CITY OF DAVIE
9) $_{7.00'}$ DENOTES EXISTING GRADE ELEVATION.

NOTICE

LANDS SHOWN HEREON WERE NOT ABSTRACTED BY THE SURVEYOR FOR RIGHTS-OF-WAY AND/OR EASEMENTS OF RECORD. THEREFORE, ONLY THOSE RIGHTS-OF-WAY AND EASEMENTS SHOWN ON THE REFERENCED PLAT ARE SHOWN.

Exhibit 3 (Expansion Plan)

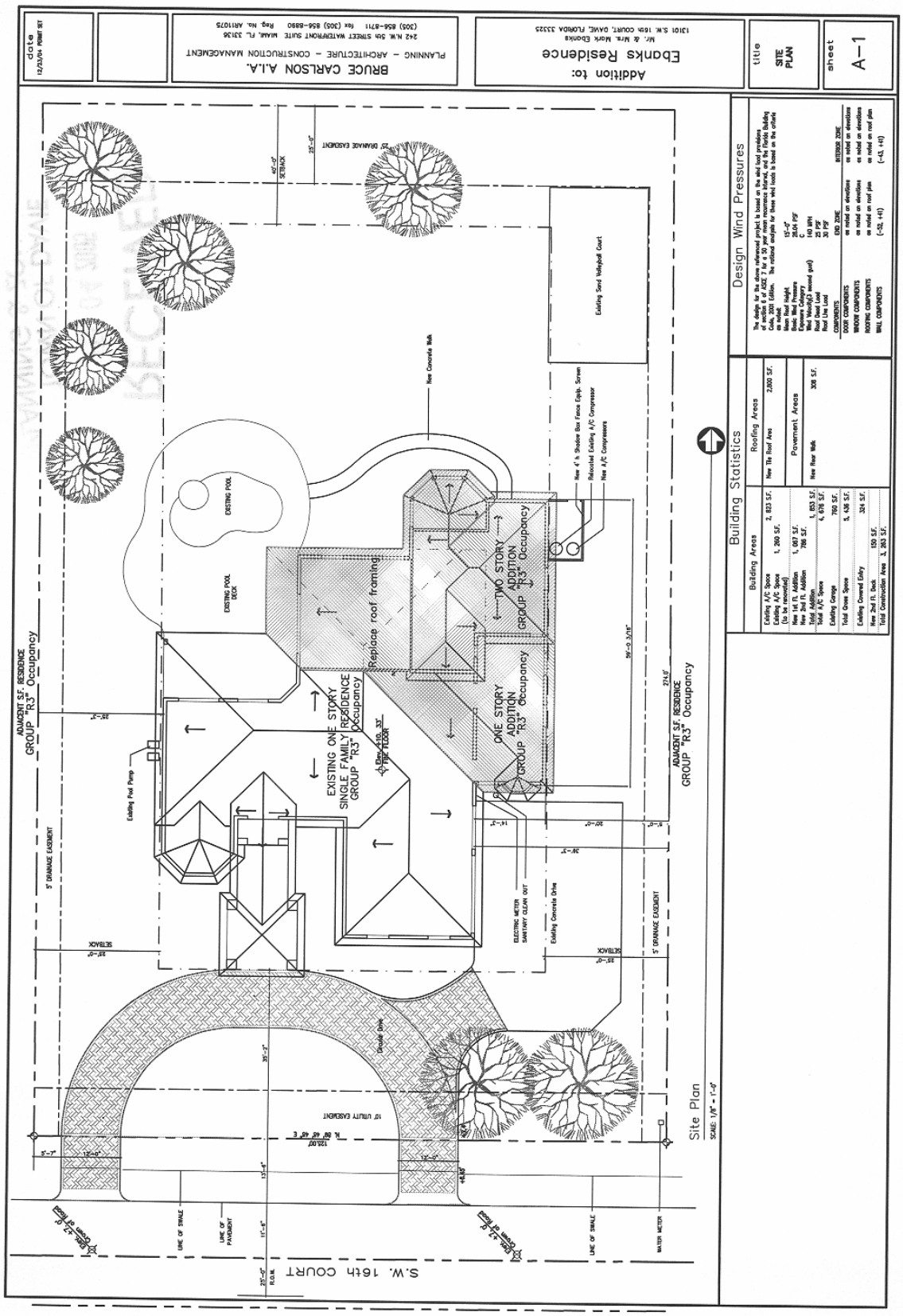


Exhibit 4 (Future Land Use Map)

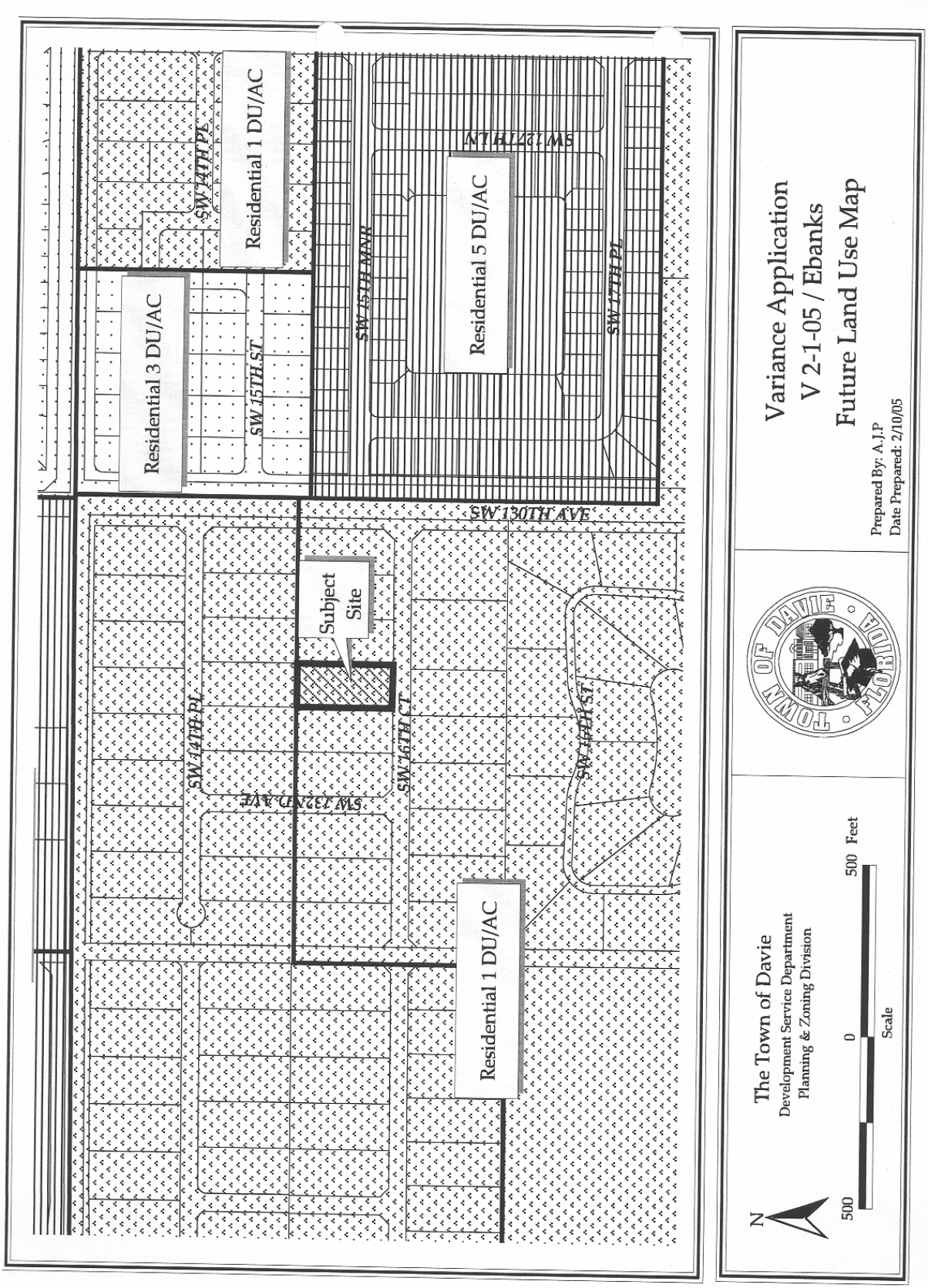
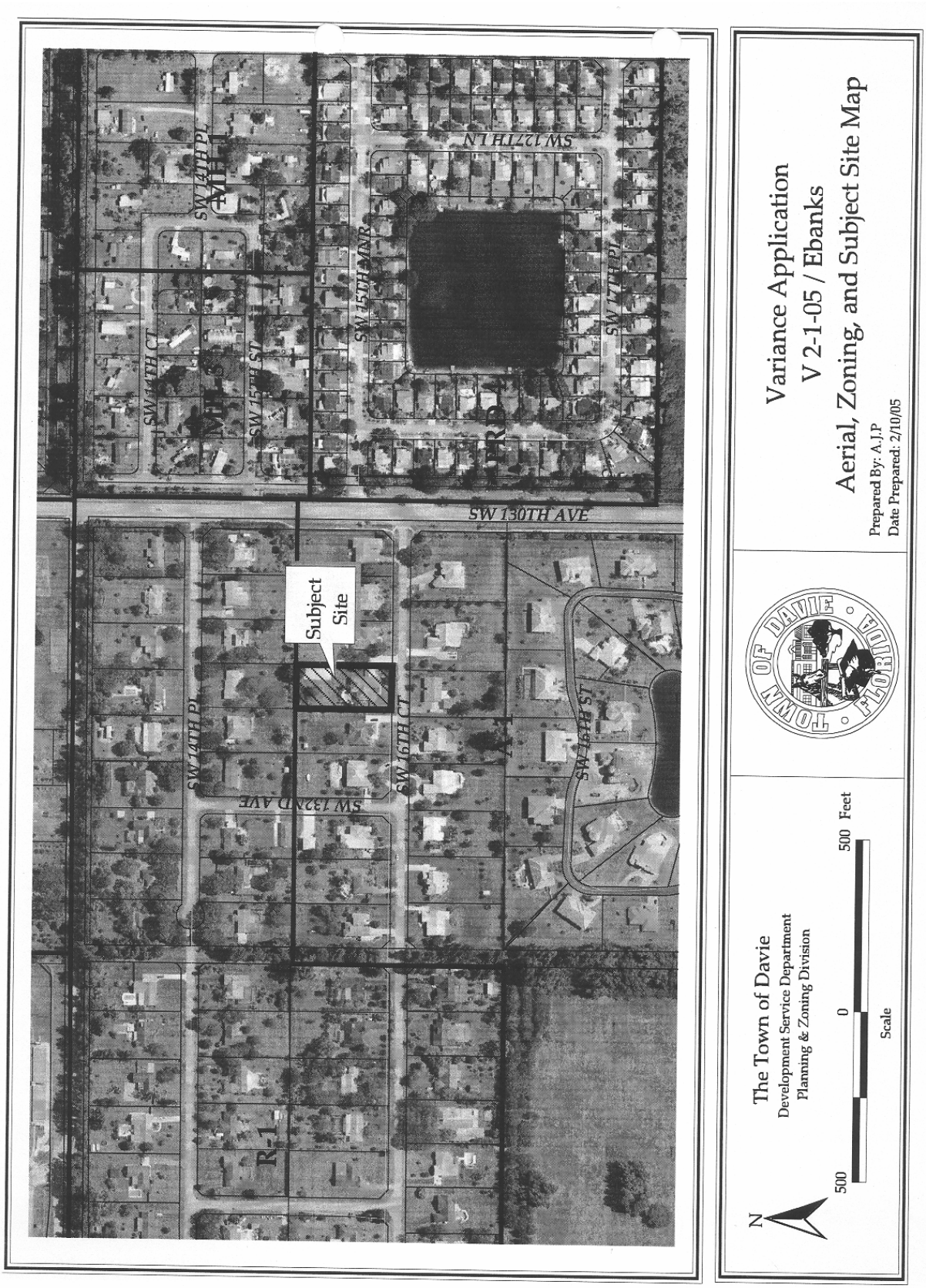


Exhibit 1 (Aerial, Zoning, and Subject Site Map)



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