

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 10-1-04 / 04-440 / Silverado Ranches (FKA McCall Nursery) / 4621 Southwest 58th Avenue / Generally located on the east side of SW 58th Avenue, approximately 600 feet south of SW 48th Street, south of Griffin Road

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM: V 10-1-04 / 04-440 / McCall Nursery

REPORT IN BRIEF:

The petitioner (Home Dynamics Corporation) is requesting to develop a single-family home community located on the east side of SW 58th Avenue, approximately 600 feet south of SW 48th Street, south of Griffin Road. The subject site is approximately 98.78 gross acres.

The property is currently zoned R-1, Estate Dwelling District and designated on the Future Land Use map as Residential 1 Dwelling Unit / Acre. This zoning district requires a minimum lot area of thirty-five thousand (35,000) square feet. Due to the fact that rights-of-way and conservation wetland/lake areas are required for retention, the developer will not have enough sufficient acreage to develop ninety-eight (98) single-family residential dwelling units.

Therefore, the petitioner is requesting a variance from Section 12-81(A), Conventional Single-Family Development Standards, of the Land Development Code to reduce the minimum lot area to twenty thousand (20,000) square feet for a proposed single-family home development. The lot sizes proposed vary in size from 40,000 sq ft to 20,000 sq ft. A breakdown of the lot sizes is as follows:

40,000-35,000 square footage = 2 lots or 2%
35,000-30,000 square footage = 7 lots or 7%
30,000-25,000 square footage = 6 lots or 6%
25,000-20,000 square footage = 83 lots or 85%

The petitioner has met with the surrounding neighbors to design a site plan that addresses their concerns. These concerns include, access through both 52nd and 58th Avenues, enhancement of the existing degraded wetland/lake areas, and a site design compatible with the surrounding neighborhoods.

The criterion for approval of a variance requires that the petitioner's request show no evidence of a self-created hardship. In the case of this variance, the existing on-site wetland is not a self-created, although it reduces the buildable site area. While the developer has the opportunity to mitigate for wetlands off-site, they prefer to enhance the existing degraded wetland and provide retention in the immediate area.

The proposed residential development will not affect the allowable building distances between homes as set forth by Rural Lifestyle Initiative (RLI). The petitioner's site design attempts to balance Town goals of on-site wetland/lake retention and roadway improvements, as well as, residents concerns of balanced traffic dispersal.

However, the site plan can continue its development rights in accordance with the R-1, Estate Dwelling District without the granting of a variance. Any approval of this variance will be bound to the site plan as submitted and/or approved and the thresholds mentioned above.

PREVIOUS ACTIONS: None

CONCURRENCES: At the April 13, 2005 Planning and Zoning Board Meeting, Mr. Stevens made a motion, seconded by Mr. McLaughlin, to approve V 10-1-04, Silverado Ranches (Formerly Know As McCall Nursery). (Motion carried 3-2 with Vice-Chair Turin and Ms. Lee being opposed. Ms. Lee was opposed to "two units per acre")

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: Home Dynamics Corporation
Address: 4788 West Commercial Boulevard
City: Tamarac, Florida 33319
Phone: (954) 484-4000

Background Information

Date of Notification: April 6, 2005 **Number of Notifications:** 190

P & Z Board

Recommendations: At the April 13, 2005 Planning and Zoning Board approved V 10-1-04, Silverado Ranches (Formerly Know As McCall Nursery). (Motion carried 3-2 with Vice-Chair Turin and Ms. Lee being opposed. Ms. Lee was opposed to "two units per acre")

App. History: None

App. Request: Variance **FROM:** Section 12-81(A), Conventional Single-Family Development Standards, of the Land Development Code, which requires a minimum lot area of thirty-five thousand (35,000) square feet in the R-1, Estate District **TO:** Reduce the minimum lot area to twenty thousand (20,000) square feet for a proposed single-family development.

Address/Location: 4621 Southwest 58th Avenue / Generally located on the east side of SW 58th Avenue, approximately 600 feet south of SW 48th Street, south of Griffin Road

Future Land Use

Plan Map: Residential 1 Dwelling Unit / Acre

Existing Zoning: R-1, Estate Dwelling District

Proposed/

Existing Use: Vacant / 98 Single-Family Residential Home Development

Parcel Size: 98.71 net acres
98.78 gross acres

Surrounding Uses:

North: Single Family Residential/Vacant
South: FPL Property
East: Florida’s Turnpike
West: Single Family Residential/Vacant

Use Plan Designation:

Residential (1 DU/AC)
Residential (1 DU/AC)
Transportation
Residential (1 DU/AC)

Surrounding Zoning:

North: A-1, Agricultural District
South: A-1, Agricultural District
East: T, Transportation District
West: A-1, Agricultural District; R-1, Estate Dwelling District

Zoning History

Related Zoning History:

Rezoning Application (ZB 7-1-04). On December 15, 2004, Town Council approved the application to rezone approximately 98.71 acres from A-1, Agricultural to R-1, Estate Dwelling District 1 DU/Acre.

Concurrent Applications:

Site Plan Application (SP 9-4-04). This request is for a ninety-eight (98) single-family home development on a 98.78 gross acres and is pending Site Plan Committee and Town Council action.

Previous Requests on same property:

Land Use Plan Amendment (LABC 98-3A). The Town initiated this Land Use Plan Amendment to change the land use of 148 acres of land, including the subject parcel, to a land use classification of Employment Center. The application was withdrawn.

Land Use Plan Amendment (LA 02-1). On February 21, 2002, Town Council denied Poinciana Homes of Broward County Inc.’s request to change the land use of a portion of the subject site (the 57 acre nursery) to a land use classification of Special Classification 2.3 DU/AC.

Land Use Plan Amendment (LA 03-7). On March 17, 2004, Town Council denied the land use plan amendment to change the entire subject site to Employment Center.

Applicable Codes and Ordinances

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

DIVISION 3. RURAL LIFESTYLE REGULATIONS

Section 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 150’, and maximum building coverage 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.

Section 12-53, Entitled, Residential performance standards requiring a minimum lot area of 35,000 square feet and net density not to exceed 1.24 units per acre.

Comprehensive Plan Considerations

Planning Area: The proposed project is within the planning area No. 9. This planning area is south of Griffin Road, generally north of Stirling Road, east of SW 76th Avenue and west of the Florida Turnpike. This area is predominately 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. Agricultural uses are expected to diminish in the upcoming years, succumbing to increased residential demands given the enhanced accessibility provided by the roadway expansion and easy access to the Florida turnpike.

Broward County Land Use Plan:

The subject site falls within Flexibility Zone 102.

Applicable Goals, Objectives & Policies:

Future Land Use Plan, Objective 12: Conservation Use, Policy 12-1: The conservation category shall be used in to preserve and protect lands that have been identified as environmentally sensitive or ecologically significant, and that promote the restoration of the Everglades system.

Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-2: No property within the Town shall be rezoned to a zoning district that is not in compliance with the Davie Future Land Use Plan.

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.

Future Land Use Plan, Objective 17: 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 is requesting a variance from Section 12-81(A), Conventional Single-Family Development Standards, of the Land Development Code, which requires a minimum lot area of thirty-five thousand (35,000) square feet in the R-1, Estate Dwelling District, to reduce the minimum lot area to twenty thousand (20,000) square feet for a proposed single-family development. The lot sizes proposed vary in size from 40,000 sq ft to 20,000 sq ft. A breakdown of the lot sizes is as follows:

- 40,000-35,000 square footage = 2 lots or 2%
- 35,000-30,000 square footage = 7 lots or 7%

30,000-25,000 square footage = 6 lots or 6%

25,000-20,000 square footage = 83 lots or 85%

This request will allow the ninety-eight (98) acre site be developed with ninety-eight (98) single-family residential dwelling units. The development standards of the R-1, Estate Dwelling District would preclude the applicant from achieving the maximum density permitted by the site's Future Land Use Plan Map classification because buildable land is lost when rights-of-way and conservation wetland/lake areas for retention are dedicated.

Any approval of this variance will be bound to the site plan as submitted and/or approved and the thresholds mentioned above.

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 applicant states that the special circumstances apply to this subject site through the preservation and enhancement of an approximately 13.7 acre conservation area.

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 subject site can continue its development rights in accordance with the R-1, Estate Dwelling District without the granting of a variance. These conditions generally apply to land in the same district and the subject site can be developed without the need for 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 subject site can be reasonably used without a variance. However, the applicant has met with the surrounding neighbors to design a site plan to address their concerns. These concerns include access through both 52nd and 58th Avenue, the enhancement of the existing degraded wetlands, and a site design compatible with the surrounding neighborhoods. Therefore, the applicant believes that it is reasonable to reduce the minimum lot size of the R-1, Estate Dwelling District in order to achieve site plan presented to the residents.

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

The variance requested is created by the desire to build the density allowed by the future land use.

- (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.

Staff cannot state that granting a variance to achieve the maximum density permitted by the future land use plan map is necessary for reasonable use of the land. However, the request is the minimum needed to construct the maximum number of dwellings permitted by the site's Future Land Use Plan Map classification.

- (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 creativity in site design to achieve the best product for the Town residents and property owners. This variance requests relief from the minimum lot size to provide open passive areas and view corridors. All regular setback and buffers will be provided. The site design, as indicated, attempts to balance Town goals of on-site wetland retention and roadway improvements; residents concerns of balanced traffic dispersal; and the developers need to have a financial feasible project.

Staff Analysis

The criterion for approval of a variance requires that the petitioner's request show no evidence of a self-created hardship. In the case of Silverado Ranches (Formerly Know As McCall Nursery), the on-site wetland conservation area reduces the buildable site area. However, the developer has the opportunity to mitigate for wetlands off-site. The enhancement of an existing degraded wetland will provide retention in the immediate area. This variance is to reduce the lot size from 35,000 sq ft to a minimum 20,000 sq ft. The proposed residential development will not affect the allowable building distances between homes as set forth by Rural Lifestyle Initiative (RLI). Due to the wetland/lake conservation area and other site dedications and design, the site plan as presented to the residents cannot be approved without a grant of variance.

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 April 13, 2005 Planning and Zoning Board Meeting, Mr. Stevens made a motion, seconded by Mr. McLaughlin, to approve V 10-1-04, Silverado Ranches (FKA McCall Nursery). (Motion carried 3-2 with Vice-Chair Turin and Ms. Lee being opposed. Ms. Lee was opposed to "two units per acre")

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)

VARIANCE JUSTIFICATION STATEMENT

Home Dynamics owns property in the Town of Davie located west of the Florida Turnpike and south of Griffin Road (the "Property"). The Property consists of 98.688 acres and is zoned R-1 with a Residential-1 land use designation. Home Dynamics is proposing to construct a 98 unit single-family home development on the Property, and has submitted a site plan application to the Town, which is currently being reviewed by Town staff. In December 2004, The Town rezoned the Property from A-1 to the Town's R-1 zoning district, which permits one unit per acre and restricts the minimum lot area on the Property to 35,000 square feet. Unfortunately, developing a compatible site plan utilizing this lot area creates a poorly planned community that includes little open space, conservation areas and common areas for residents of the community to enjoy. Home Dynamics desires to develop a more balanced, well-planned community that will include large conservation areas and open spaces that can be shared by the community as a whole, as opposed to having such areas restricted to residents of the community. **Based on the foregoing, Home Dynamics is requesting a variance from Article V, Section 12-81, of the Town Code to reduce the minimum lot area for the Property from 35,000 square feet per lot to 20,000 square feet per lot.**

As discussed in greater detail below, the Variance complies with the variance review criteria set forth in Section 12-309 of the Code. Specifically, Petitioner will demonstrate that: (a) there are special circumstances or conditions applying to the land or building 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; (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; and (c) 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.

(a) There are special circumstances or conditions applying to the land or building 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. Special conditions and circumstances exist for the Property, which are peculiar to the Property and do not apply generally to other land or buildings in the same zoning district. The Property is being considered for development as a 98 unit single-family community. The proposed site plan calls for several lakes, conservation areas, open spaces and nice lots with many of the homes having waterfront views. What makes this site plan unique is the significant amount of open space and common area spread throughout the community, which is designed to provide all residents and members of the community as a whole with open vistas of the lake from various locations. However, requiring a minimum lot area of 35,000 square feet places a

FTL:1305658:1

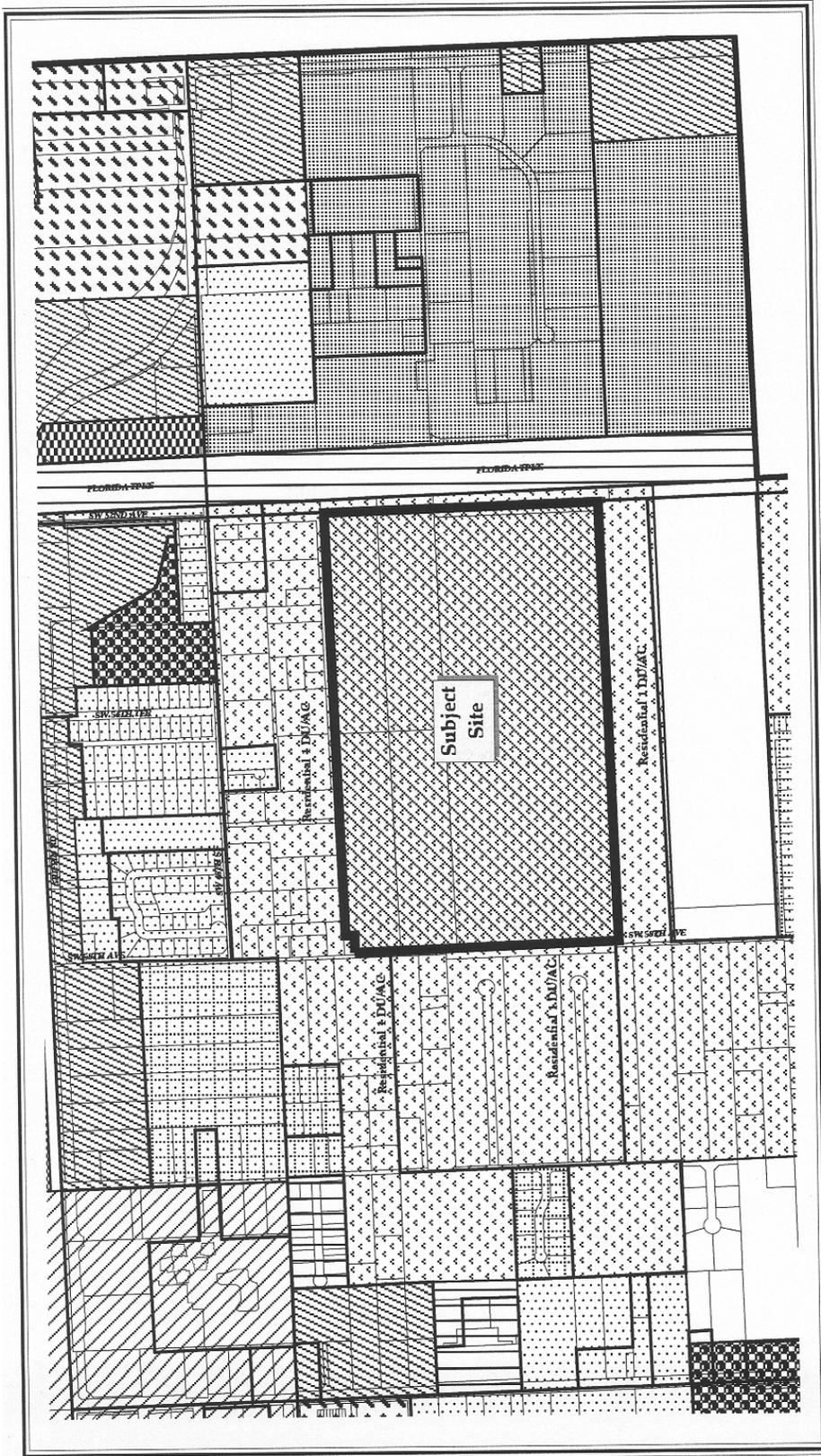
restriction on Home Dynamics' ability to provide a residential development with lake views and open vistas for the entire community to enjoy. In order to develop a single-family residential community with expanded views of the lake and other open areas, as well as the mitigation and conservation areas being established on site, Home Dynamics requires a reduction in the minimum lot area of 35,000 square feet required by the R-1 zoning district.

(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. Home Dynamics is requesting the minimum variance necessary to develop a vibrant, active living community, while at the same time providing the residents of the community with open space and common area. The proposed 20,000 square foot lots will allow Home Dynamics greater flexibility in the creation of a more beautiful and well-planned development **without increasing density under the R-1 zoning category.** In addition, the variance will permit Home Dynamics to preserve a significant amount of the Property as conservation area and open space for use by residents within and outside of the planned community.

(c) 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 requested variance is in harmony with the purpose and intent of the Town Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Indeed, granting the requested variance will provide an added amenity to a beautifully planned community and will attract new residents to the Town. In addition, the requested variance will permit Home Dynamics to satisfy the intent and purpose of the scenic corridor overlay district by preserving and enhancing the rural character and scenic qualities along Southwest 58th Avenue. The goals of the scenic corridor overlay district guidelines are 1) to prevent the visual encroachment of buildings and structures, and 2) to maintain existing desirable vegetation and enhance vegetation along designated roadways. Home Dynamic's has prepared a site plan with smaller lots, ranging from 20,000 square feet to almost 40,000 square feet, that preserves a lengthy frontage along 58th Avenue as conservation area and open space that may be viewed as a beautiful scenic corridor by all passengers traveling on 58th Avenue.

FTL:1305658:1

Exhibit 4 (Future Land Use Map)



Variance Application
V 10-1-04 / 04-440 / McCall Nursery
Future Land Use Map

Prepared By: D.M.A.
Date Prepared: 3/25/05



The Town of Davie
Development Service Department
Planning & Zoning Division

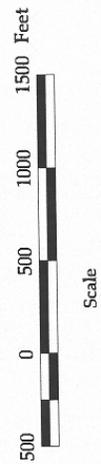


Exhibit 1 (Aerial, Zoning, and Subject Site Map)



**Variance Application
V 10-1-04 / 04-440 / McCall Nursery
Aerial, Zoning, and Subject Site Map**

Prepared By: D.M.A.
Date Prepared: 3/25/05



The Town of Davie
Development Service Department
Planning & Zoning Division

