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 7-2-05 / 05-572 / Kim & Deborah Nelson / 3778 Gulfstream Way / Generally located on the west side of Gulfstream Way and approximately 500′ north of Laurel Road

AFFECTED DISTRICT: District 3

TITLE OF AGENDA ITEM: V 7-2-05 / 05-572 / Kim & Deborah Nelson

REPORT IN BRIEF:
The petitioners are requesting a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum 35′ foot side setback from the property line, to reduce the minimum to a 20.8′ foot side setback from the property line in the AG zoning district.

The subject site is a .83 acres (approx. 36,266 square feet) parcel of land approximately one-hundred forty (140) feet in width by two hundred fifty-one (251) feet in depth, located on the west side of Gulfstream Way and approximately 500′ north of Laurel Road. 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 petitioners are proposing to build a garage addition to the existing residential home approximately one thousand twenty (1,020) square feet along the southeastern portion of the existing house. The original building side setbacks for this property were twenty-five (25) feet. The new garage structural addition as proposed would encroach into the original building side setbacks.

According to § 12-81(A) of the Land Development Code, Table of Conventional Single-Family Development Standards, typical AG, Agricultural Districts are required to provide a 35′ side setback. This variance would reduce the required 35′ side setback by 14.2′ feet.

The criteria for approval of a variance require that the petitioners request show no evidence of self-created hardship. In the case of Mr. and Mrs. Nelson, the property is approximately one-hundred forty (140) feet in width by two hundred fifty-one (251) feet in depth. In review of the survey and residential expansion plan, it proposes a garage placed just outside the southeastern existing exterior wall. The current distance from the southeastern exterior wall to

the property line is approximately 37.8′. The required 35′ side setback would only permit 2.8′ of structure width for the proposed garage. Thus, staff concludes that this proposed addition could not be accommodated without the approval of a variance.
Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations had a 35′side-building setback.

The adopted RLI provides for a side setback dimension of 35′ creating a 70′ foot separation between all new structures. Granting a variance to allow a 20.8′ side-building setback from the property line would result in approximately 230′ foot separation between the two structures.

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

PREVIOUS ACTIONS:
At the January 4, 2006 Town Council Meeting, Councilmember Starkey made a motion to table to V 7-2-05 / Nelson to January 18, 2006, seconded by Councilmember Paul to provide the petitioner adequate time to obtain a new HOA board approval. **(Motion carried 5-0)**

CONCURRENCES:
At the December 14, 2005 Planning and Zoning Board Meeting, Mr. Luis made a motion, seconded by Mr. Stevens, to approve variance application V 7-2-05 Nelson. **(Motion carried 3-2 with Vice-Chair McLaughlin and Ms. Turin being opposed. They did not want to set a precedent and break the 25-foot setback)**

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: Kim & Deborah Nelson
Address: 3778 Gulfstream Way
City: Davie, Florida 33328
Phone: (954) 557-6904

Background Information

Date of Notification: October 5, 2005 **Number of Notifications:** 85

App. History: None

App. Request: Variance **FROM:** Section 12-287 (B) of the Land Development Code, which requires a minimum 35′ side setback from the property line. **TO:** Reduce the minimum to a 20.8′ side setback from the property line.

Address/Location: 3778 Gulfstream Way / Generally located on the west side of Gulfstream Way and approximately 500′ north of Laurel Road

Future Land Use Plan Map: Residential 1 DU / Acre

Existing Zoning: AG, Agricultural District

Existing Use: Single-Family Residential Dwelling Unit

Parcel Size: .83 acres (approx. 36,266 square feet)

	Surrounding Uses:	Surrounding Future Land Use Plan Map Designations:
North:	Single-Family Residential (Long Lake Ranches)	Residential 1 DU / Acre
South:	Single-Family Residential (Long Lake Ranches)	Residential 1 DU / Acre
East:	Single-Family Residential (Long Lake Ranches)	Residential 1 DU / Acre
West:	Single-Family Residential (Long Lake Ranches)	Residential 1 DU / Acre

Surrounding Zoning:

North: AG, Agricultural District
South: AG, Agricultural District
East: AG, Agricultural District
West: AG, 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 AG zoning district, the minimum lot area shall be 43,560 square feet, the minimum lot frontage is 150′, and maximum building coverage is 20%. The building setbacks shall be as follows for the AG zoning district: front 40′-50′, side 35′, 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 100.

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 35′ foot side setback from the property line, to reduce the minimum to a 20.8′ foot side setback from the property line in the AG zoning district.

The subject site is a .83 acres (approx. 36,266 square feet) parcel of land approximately one-hundred forty (140) feet in width by two hundred fifty-one (251) feet in depth, located on the west side of Gulfstream Way and approximately 500′ north of Laurel Road. 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 petitioners are proposing to build a garage addition to the existing residential home approximately one thousand twenty (1,020) square feet along the southeastern portion of the existing house. The original building side setbacks for this property were twenty-five (25) feet. The new garage structural addition as proposed would encroach into the original building side setbacks.

According to § 12-81(A) of the Land Development Code, Table of Conventional Single-Family Development Standards, typical AG, Agricultural Districts are required to provide a 35′ side setback. This variance would reduce the required 35′ side setback by 14.2′ 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 .83 acres (approx. 36,266 square feet) parcel can support an addition to the existing structure that does not require a variance. However, the garage addition is logically placed along the southeastern portion of the existing house, approximately 250′ from the neighboring house.

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 AG, 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, the most sensible place to locate an addition would be on along the southeastern 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 southeastern portion of the existing two-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 35' to 20.8' should not be detrimental to the adjacent properties, as the next closest structure is approximately 250' feet from the addition.

Staff Analysis

The criteria for approval of a variance require that the petitioner's request show no evidence of self-created hardship. In the case of Mr. and Mrs. Nelson, the property is approximately one-hundred forty (140) feet in width by two hundred fifty-one (251) feet in depth. In review of the survey and residential expansion plan, it proposes a garage placed just outside the southeastern existing exterior wall. The current distance from the southeastern exterior wall to the property line is approximately 37.8'. The required 35' side setback would only permit 2.8' of structure width for the proposed garage. Thus, staff concludes that this proposed addition could not be accommodated without the approval of a variance.

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The adopted RLI provides for a side setback dimension of 35′ creating a 70′ foot separation between all new structures. Granting a variance to allow a 20.8′ side-building setback from the property line would result in approximately 230′ foot separation between the two structures.

Thus, a side setback reduction would only directly affect the house to the south, 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 December 14, 2005 Planning and Zoning Board Meeting, Mr. Luis made a motion, seconded by Mr. Stevens, to approve variance application V 7-2-05 Nelson. **(Motion carried 3-2 with Vice-Chair McLaughlin and Ms. Turin being opposed. They did not want to set a precedent and break the 25-foot setback)**

Town Council Action

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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)*

To: Chris Gratz (Chris_Gratz@davie-Fl.gov)
954-797-1103 (office), 954-797-1204 (Fax)
Town of Davie

Dear Mr. Grantz,

We live in Long Lake Ranches and are planning to build on an addition/garage to the south side of our house, which is a Renoir model (lot 104). I had spoken with you a few months ago regarding a request for variance. You explained we needed approval from our nearest affected neighbor and an association approval. We have already received a conditional approval from the HOA/Miami Management (see attached letter). The final approval will be based on submitted plans, but the actual request to build into the set back has been granted. We have also spoken to our nearest affected neighbor which is to our south (Rudy & Myrna Renaud, 10477 Laurel Rd) and have received their complete approval.

In order to achieve this, we are requesting a variance to build into the south side setback about 4.2' based on the original 25' setback in effect when we purchased the home (14.2' based current set back of 35'). This would reduce the current set back to 20.2'. Addition/garage will be 17' wide by 52'-60' long. Please note, the garage will be added to the side of the house where the existing garages are already located. This measurement is necessary in order for there to be a usable internal width for the vehicles that are to be contained within.

Note that our neighbor to our south (Rudy) has his back yard abutting our side yard. With the combined distance of our wide side yard & our neighbors' extra long back yard, our request to extend into the setback area will be far less visually noticeable then it might be if the houses were simply side-by-side.

Furthermore, our neighbor located at 10457 Laurel Rd (Frank & Sabastiana Tobia) who also own a Renoir model, have already added such a garage structure to there home. This addition is very appealing to the eye & has added significant value to his beautiful home & the homes in our wonderful neighborhood. As our neighbor Frank has done, we intended to use a very similar design that complements the design of the house to the point that it will look as if it were an upgrade option offered by G.L. Homes themselves.

Thank you for your consideration of our variance request. We look forward to hearing from you soon.

Sincerely,

Kim & Deborah Nelson
(Long Lake Ranches, lot 104)

Kim & Deborah Nelson 3778 Gulfstream Way, Davie Fl. 33328
954-424-4422 (Home), 954-916-1608 (Fax) email kdnelson@bellsouth.net
Contact: Kim's (cell) 954-557-6904
(Lot 104, Folio # 504119131040, Plat Book 171, Pg 151)

Exhibit 2 (*Survey*)

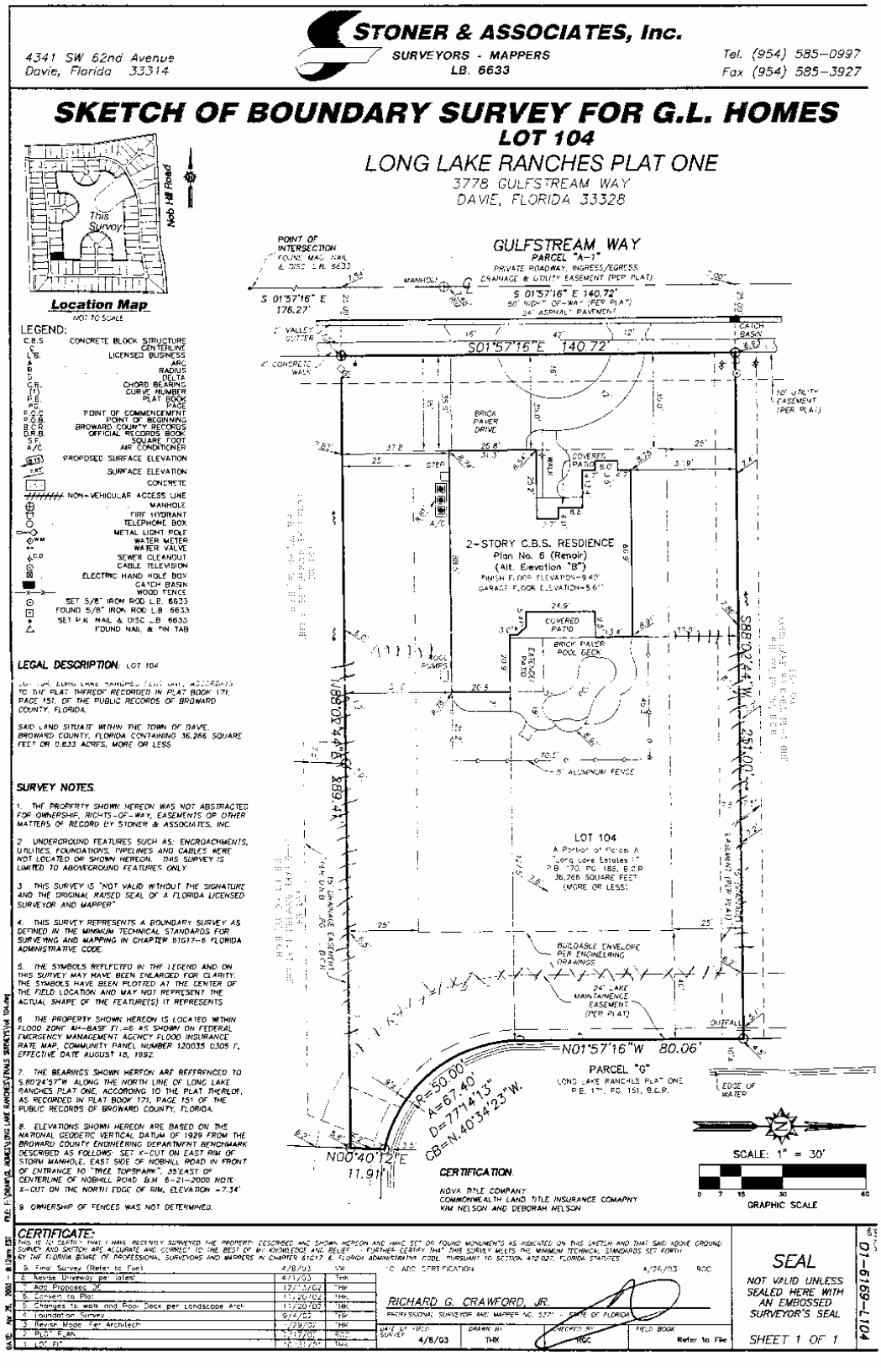

Exhibit 3 ***(Expansion Plan)***

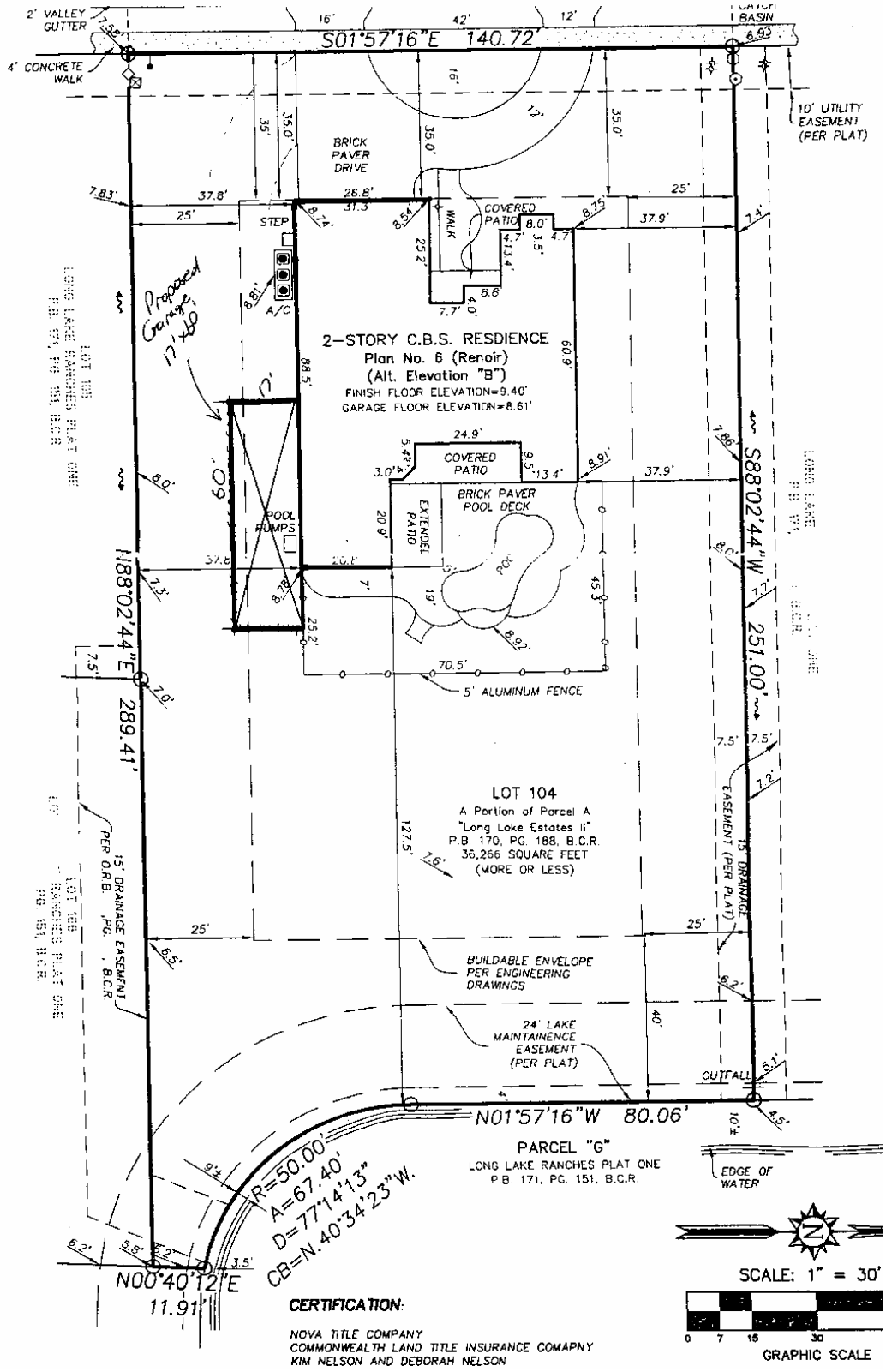

Exhibit 4 ***(Future Land Use Map)***

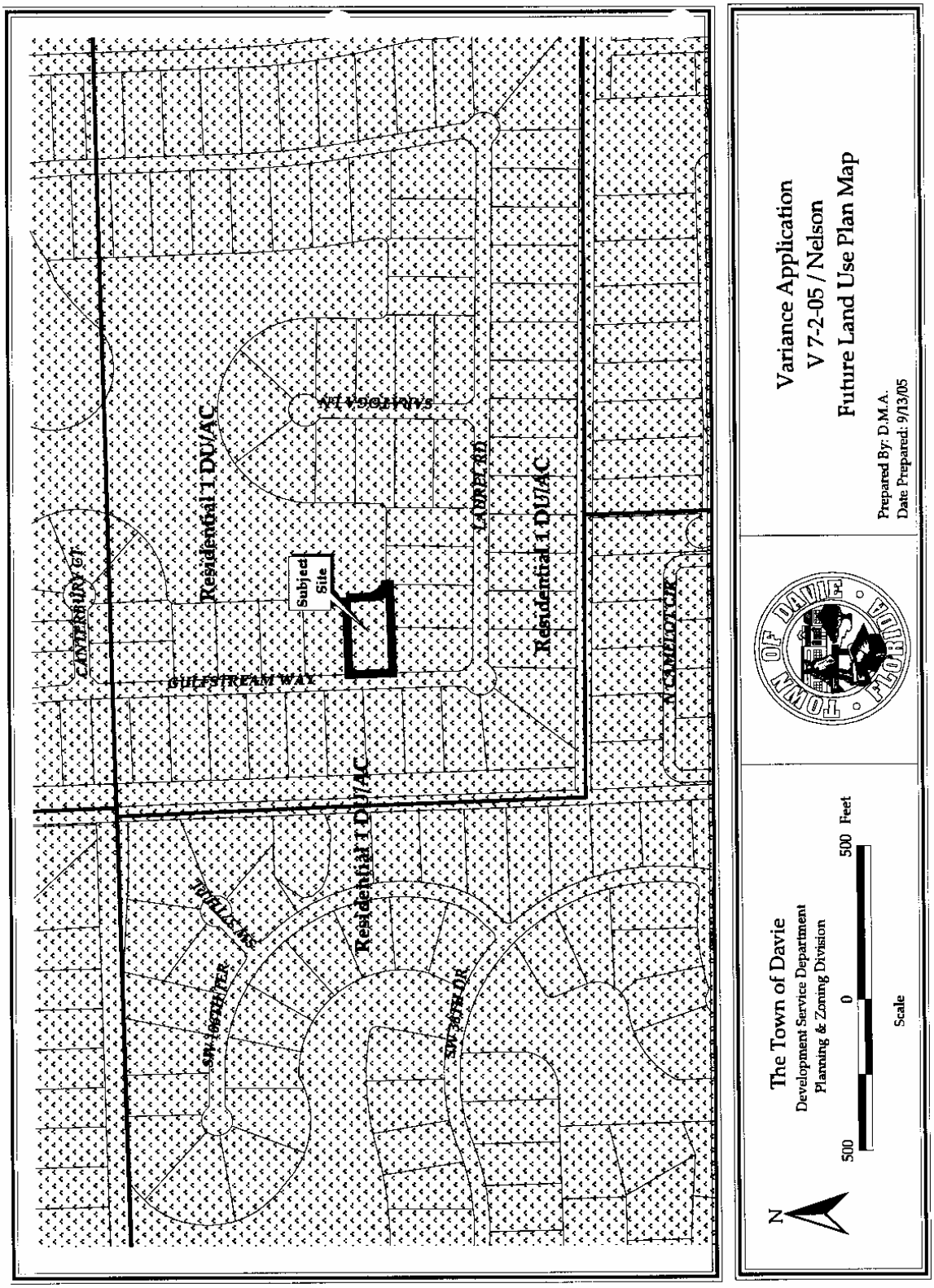
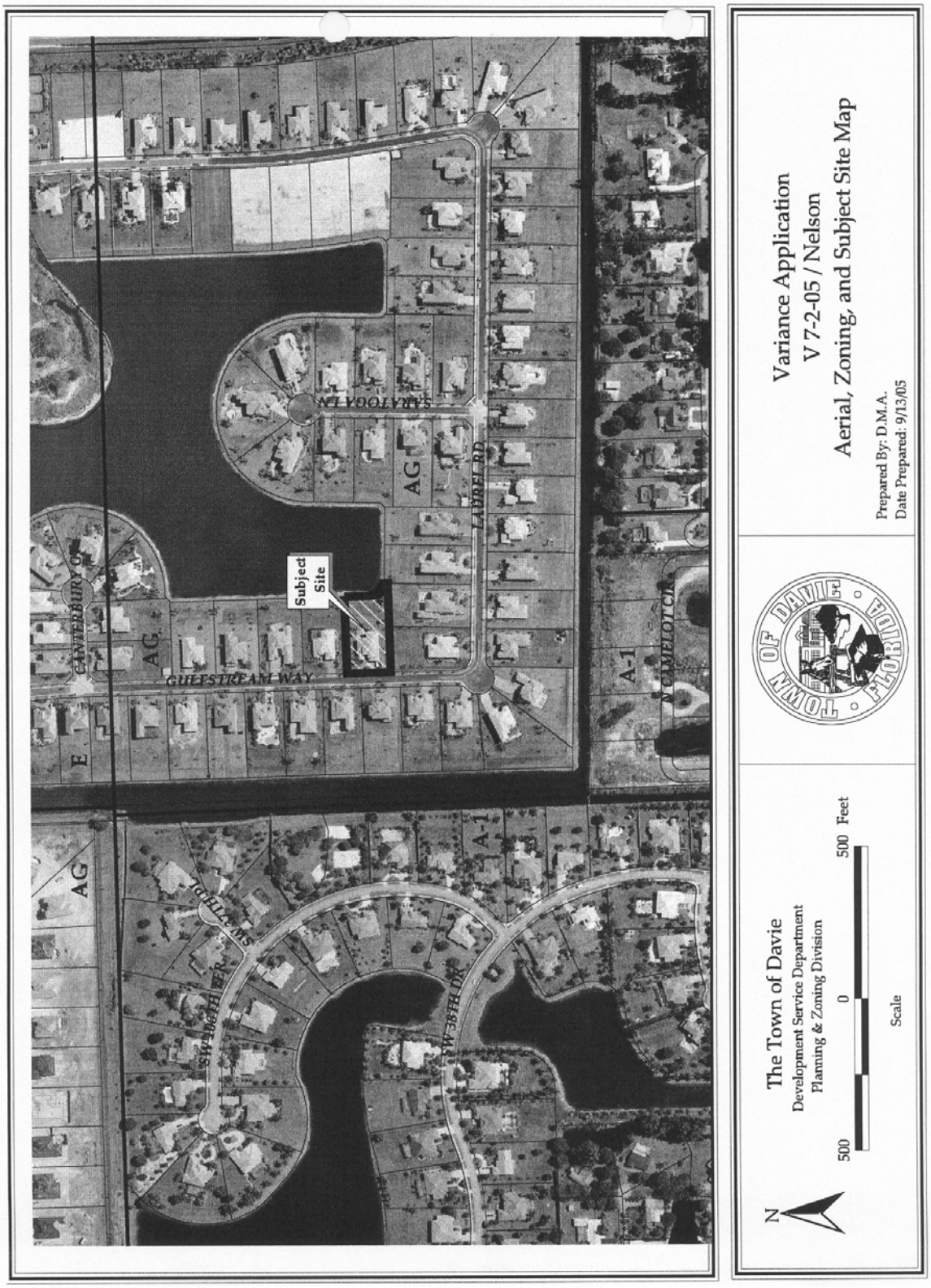
Exhibit 5 (*Aerial, Zoning, and Subject Site Map)*