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 III

SUBJECT: Quasi Judicial Hearing: Variance, V 7-3-05 / 05-580 / Dupont Nelson / 3344 Meadowbrook Way / Generally located on the southeast corner of Pine Lodge Trail and Meadowbrook Way

AFFECTED DISTRICT: District 3

TITLE OF AGENDA ITEM: V 7-3-05 / 05-580 / Dupont

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 25′ foot side setback from the property line in the AG zoning district.

The subject site is a .80 acres (approx. 35,009 square feet) parcel of land approximately one-hundred thirty-seven (137) feet in width by two hundred fifty-five (255) feet in depth, located on the east side of Meadowbrook Way, approximately 150′ south of Pine Lodge Trail. 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 an addition to the existing residential home approximately onto the northeastern portion of the existing house. The original building side setbacks for this property were twenty-five (25) feet. The new structural addition 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 AG, Agricultural Districts are required to provide a 35′ side setback. This variance would reduce the required 35′ side setback by 10′ feet.

The criteria for approval of a variance requires that the petitioner request show no evidence of self-created hardship. In the case of Mr. and Mrs. Dupont, the subject site is a .80 acres (approx. 35,009 square feet) parcel of land approximately one-hundred thirty-seven (137) feet in width by two hundred fifty-five (255) feet in depth. In review of the survey and residential expansion plan, the current distance from the exterior wall to the property line is approximately thirty-six (36) feet. The required thirty-five (35) foot side setback would only permit one (1) foot of structure width for an addition. 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-five (35) feet creating a minimum seventy-(70) 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 minimum sixty-(60) foot separation between the two structures.

Furthermore, a side setback reduction may only directly affect the house to the north, should 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, V 7-3-05, DuPont was tabled to February 1, 2006. **(Motion carried 5-0)**

At the February 1, 2006 Town Council Meeting, V 7-3-05, DuPont to April 5, 2006. **(Motion carried 5-0)**

At the April 5, 2006 Town Council Meeting, V 7-3-05, DuPont was tabled to May 3, 2006. **(Motion carried 5-0)**

At the May 3, 2006 Town Council Meeting, V 7-3-05, DuPont was tabled to June 7, 2006. **(Motion carried 5-0)**

At the June 7, 2006 Town Council Meeting, V 7-3-05, DuPont was tabled to August 2, 2006. **(Motion carried 5-0)**

CONCURRENCES:
At the December 14, 2006 Planning and Zoning Board Meeting, Mr. Luis made a motion, seconded by Vice-Chair McLaughlin, to table V 7-3-05, DuPont to January 11, 2006. **(Motion carried 5-0)**

At the January 11, 2006 Planning and Zoning Board Meeting, Mr. Luis made a motion, seconded by Vice-Chair McLaughlin, to table V 7-3-05, DuPont to March 8, 2006. **(Motion carried 5-0)**

At the March 8, 2006 Planning and Zoning Board Meeting, Vice-Chair McLaughlin made a motion, seconded by Ms. Turin, to table V 7-3-05, DuPont to April 12, 2006. **(Motion carried 5-0)**

At the April 12, 2006 Planning and Zoning Board Meeting, Vice-Chair McLaughlin made a motion, seconded by Ms. Turin, to table V 7-3-05, DuPont to May 10, 2006. **(Motion carried 4-0, Mr. Stevens was absent)**

At the May 10, 2006 Planning and Zoning Board Meeting, Chair Bender passed the gavel and made a motion, seconded by Mr. Stevens, to deny the tabling. **(Motion carried 4-0, Ms. Turin was absent)** Mr. Stevens made a motion, seconded by Ms. Stenzel-Nowicki, to deny. **(Motion carried 5-0)**

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

Revisions: 1/5/06, 3/2/06, 5/5/06, 5/17/06
Original Report Date: 11/30/05

TOWN OF DAVIE

Development Services Department
Planning and Zoning Division
Staff Report and Recommendation

Applicant Information

Owner / Petitioner:

Name: Micheal and Verna Dupont
Address: 3344 Meadowbrook Way
City: Davie, Florida 33328
Phone: (954) 868-0318

Background Information

Date of Notification: December 7, 2005 **Number of Notifications:** 91

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 25′ side setback from the property line.

Address/Location: 3344 Meadowbrook Way / Generally located on the southeast corner of Pine Lodge Trail and Meadowbrook Way

Future Land Use Plan Map: Residential 1 DU / Acre

Existing Zoning: AG, Agricultural District

Existing Use: Single-Family Residential Dwelling Unit

Parcel Size: .80 acres (approx. 35,009 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: 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 25′ foot side setback from the property line in the AG zoning district.

The subject site is a .80 acres (approx. 35,009 square feet) parcel of land approximately one-hundred thirty-seven (137) feet in width by two hundred fifty-five (255) feet in depth, located on the east side of Meadowbrook Way, approximately 150′ south of Pine Lodge Trail. 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 an addition onto the northeastern portion of the existing house. The original building side setbacks for this property were twenty-five (25) feet. The new structural addition 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 AG, Agricultural Districts are required to provide a 35′ side setback. This variance would reduce the required 35′ side setback by 10′ 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 .80 acres (approx. 35,009 square feet) parcel can support an addition to the existing structure that does not require a variance. However, the addition is logically placed along the northeastern portion of the existing house, next to the existing pool. .

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 and the existing pool, the most sensible place to locate an addition would be on along the northeastern 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 northeastern portion of the existing 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-five feet (35') to twenty-five feet (25') may not be detrimental to the adjacent properties, as the next closest structure would be approximately sixty (60) feet from the proposed addition.

Staff Analysis

The criteria for approval of a variance requires that the petitioner request show no evidence of self-created hardship. In the case of Mr. and Mrs. Duponts, the subject site is a .80 acres (approx. 35,009 square feet) parcel of land approximately one-hundred thirty-seven (137) feet in width by two hundred fifty-five (255) feet in depth. In review of the survey and residential expansion plan, the current distance from the exterior wall to the property line is approximately thirty-six (36) feet. The required thirty-five (35) foot side setback would only permit one (1) foot of structure width for an addition. Therefore, staff concluded that the existing residential structure could not accommodate and logically place the expansion without a variance.

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Furthermore, a side setback reduction may only directly affect the house to the north, should 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 the Planning and Zoning Board and Town Council for further consideration. The following condition shall be met prior to final approval:

1. Receive a letter from Long Lake Ranches Home Owner Association (HOA) approving the Dupont's proposed structural addition.
2. Receive floor plans, elevations, and landscape plans.

Planning and Zoning Board Recommendation

At the December 14, 2006 Planning and Zoning Board Meeting, Mr. Luis made a motion, seconded by Vice-Chair McLaughlin, to table V 7-3-05, DuPont to January 11, 2006. **(Motion carried 5-0)**

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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)***

City of Davie
6591 SW 45th Street
Davie, Fl. 33314

Michael and Verna Du Pont
3344 Meadowbrook Drive
Davie, Fl. 33328

December 1, 2005

Dear Board:

We, Michael and Verna Dupont, the homeowners of 3344 Meadowbrook way of Long Lake Ranches are in the planning stages of construction on a lanai on the rear of our home. The addition will be located on the northern, rear part of the property. By coordinating with the City of Davie and our Home Owners Association our addition will be a smooth process for all involved.

The reason that we are requesting a variance is because there are special circumstances applying to the building of the lanai. The circumstances are such that the strict application of the provision of the Davie Code would deprive us of the reasonable use of the property.

The special circumstances concerning the variance is that our addition will encroach the northern, side setback by 10 feet. By this being the original setback as deemed by the City of Davie, this will allow our property to be used at it's full potential. By using the original setback this will allow us full, reasonable use of the property.

Granting this variance will be in harmony with the general purpose of the City of Davie. The addition will in no way be injurious to the neighborhood or otherwise detrimental to the public welfare of the City of Davie. Thank you for your co-operation in this matter.

Sincerely

Michael and Verna Du Pont

Exhibit 2 *(Survey)*

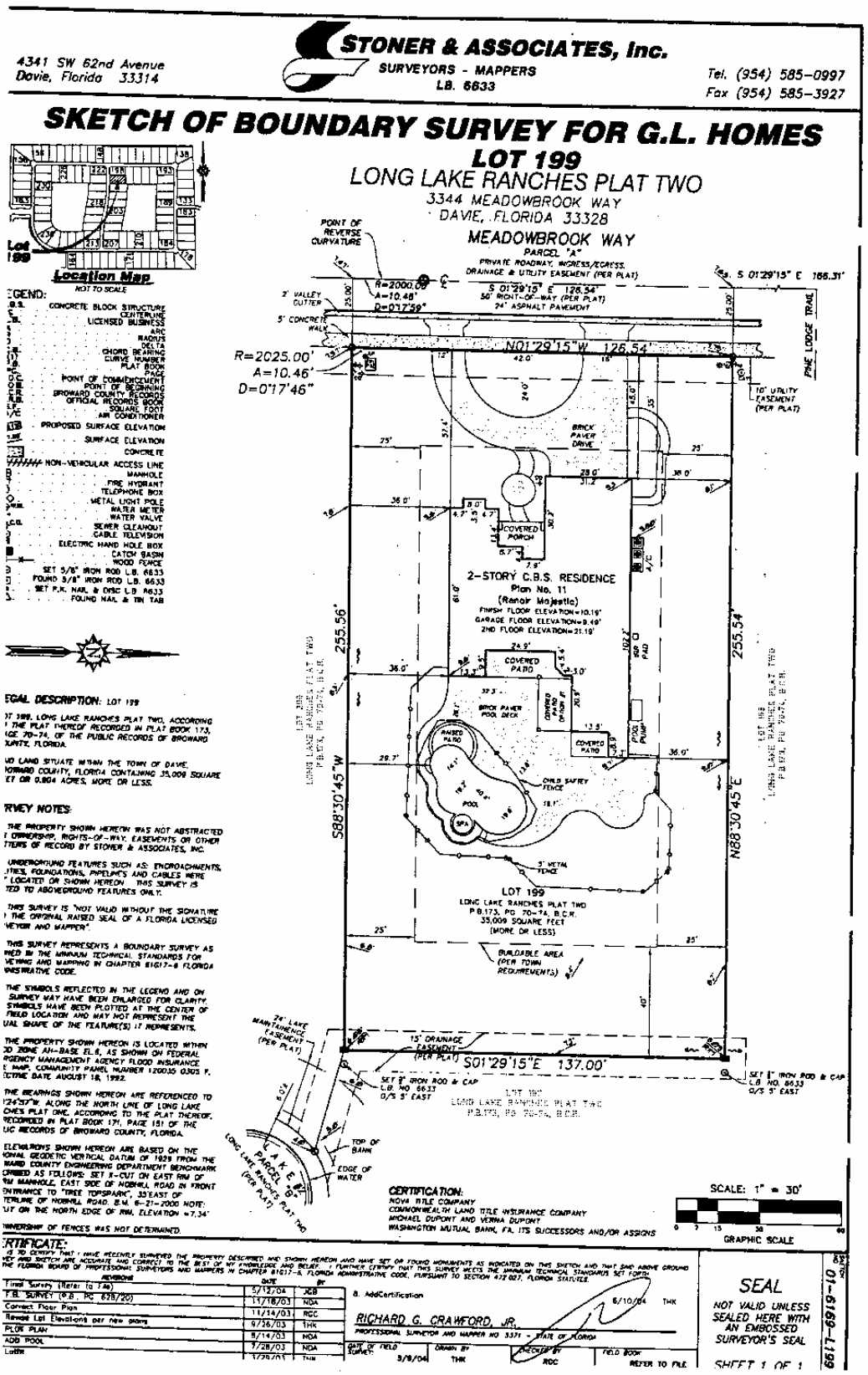

Exhibit 3 *(Expansion Plan)*

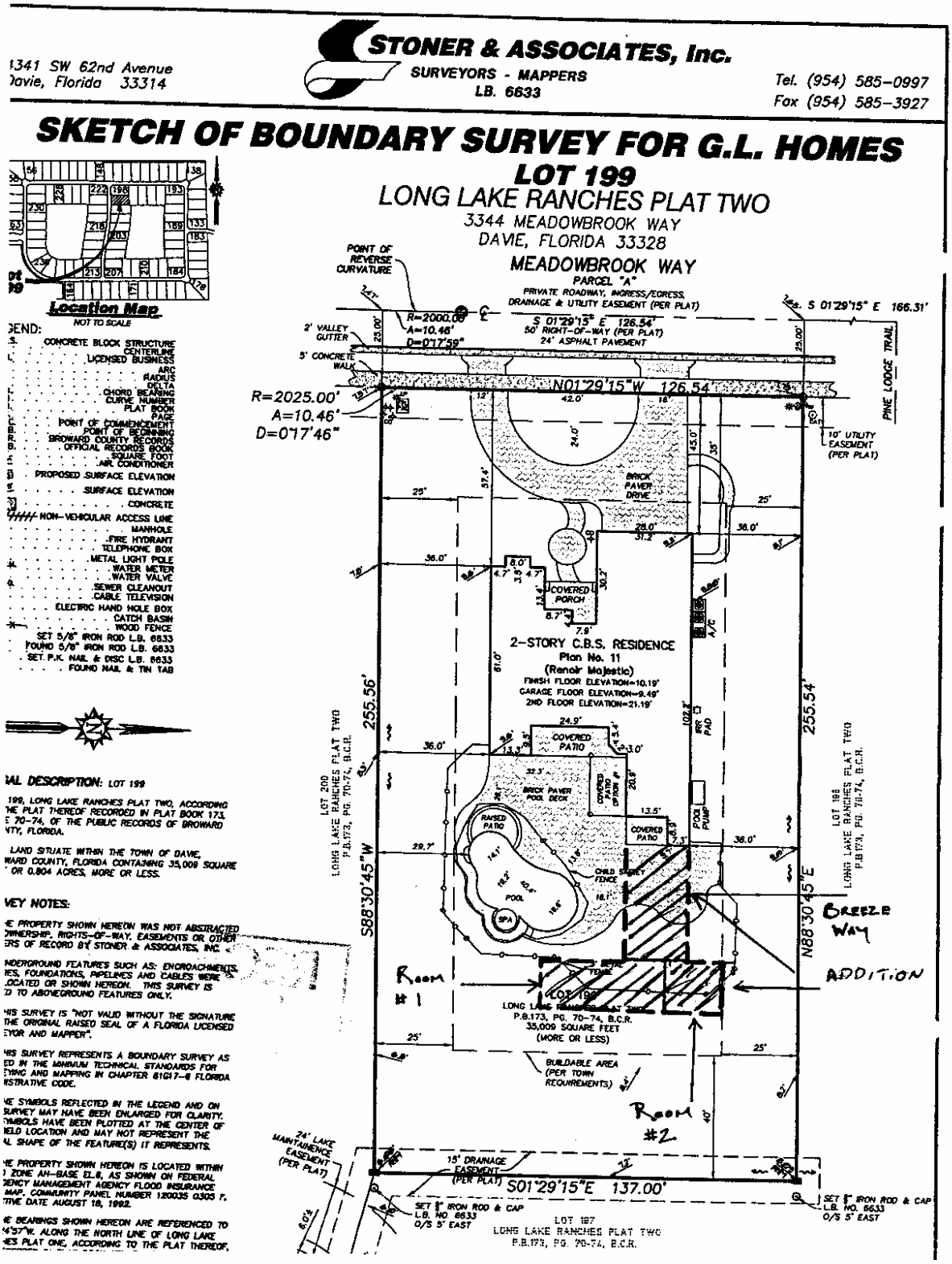

Exhibit 4 ***(Future Land Use Map)***

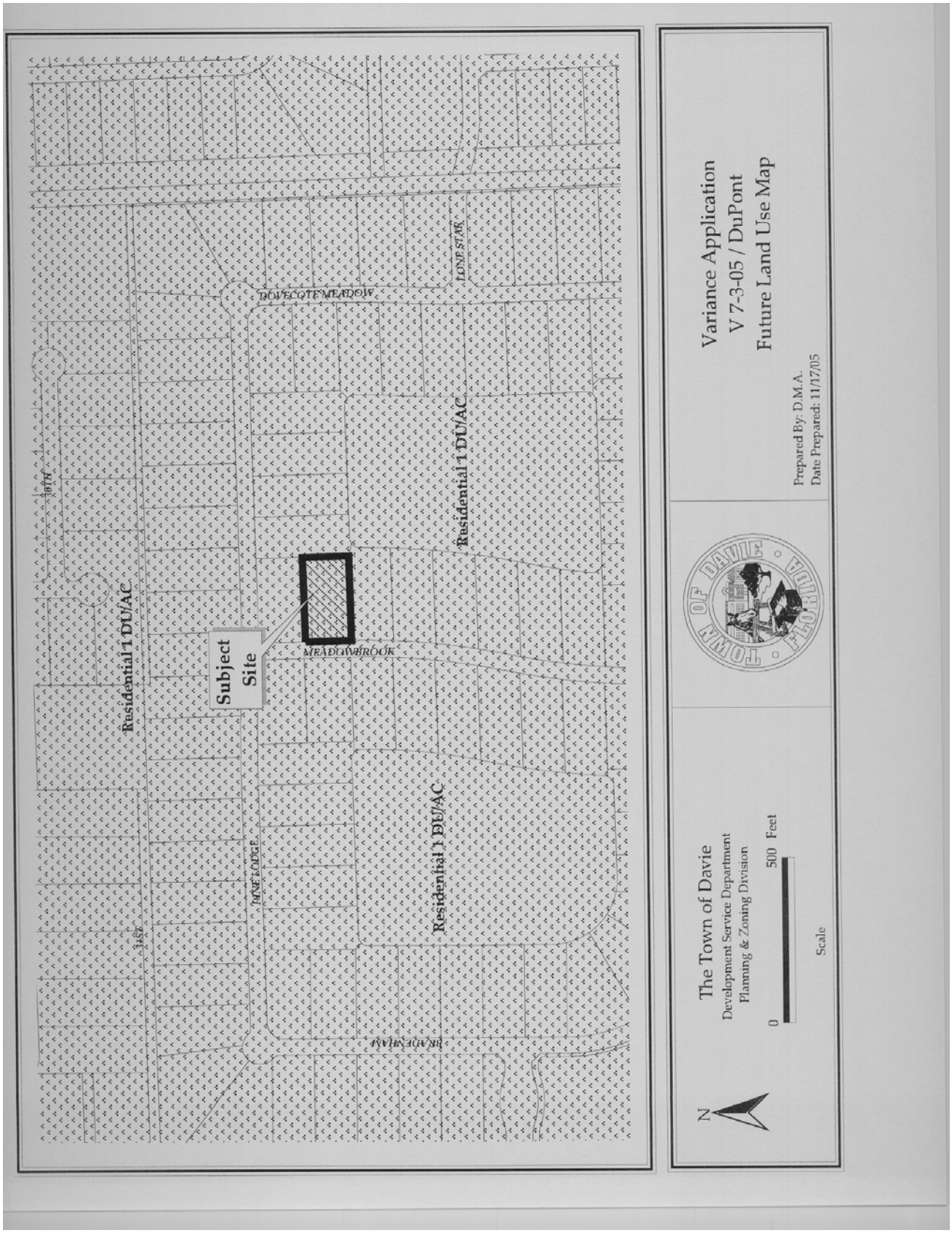
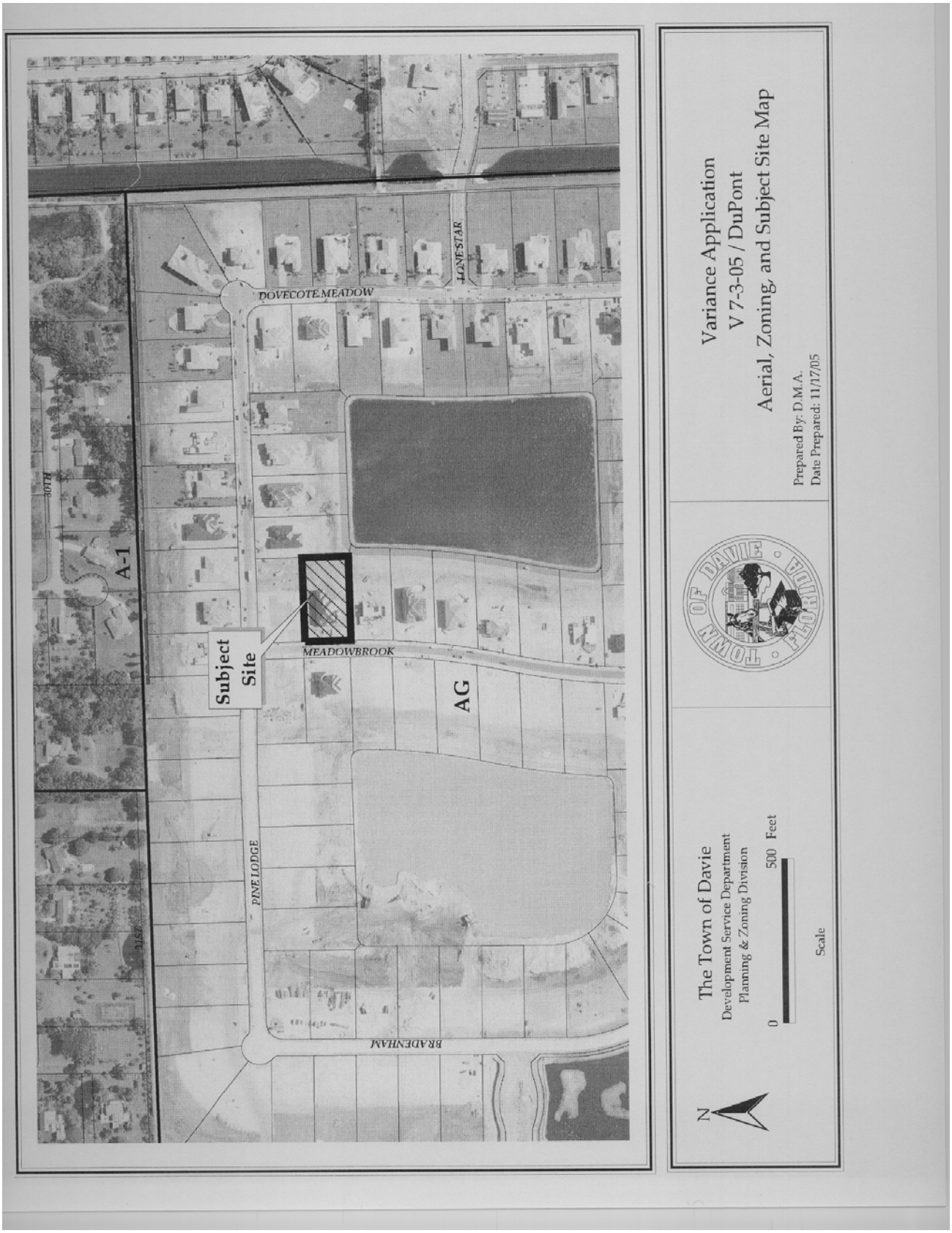
Exhibit 5 (*Aerial, Zoning, and Subject Site Map)*