

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: Ingrid Allen, Planner II

SUBJECT: Quasi Judicial Hearing: Variance, V 9-1-05 Vietnamese Buddhist Cultural Center, 2321 SW 127th Avenue, Generally located on the westside of SW 127th Avenue approximately 970 feet north of SW 26th Street.

AFFECTED DISTRICT: District 3

TITLE OF AGENDA ITEM: V 9-1-05 Vietnamese Buddhist Cultural Center, 2321 SW 127th Avenue (A-1)

REPORT IN BRIEF: The applicant is requesting a variance from Section 12-34 (DD) of the Land Development Code to reduce the requirement of a 2500 foot separation between freestanding houses of worship so that the existing Vietnamese Buddhist Cultural Center can be located 1609.64' from the Hanmi Baptist Church and 2310.54' from the Calvery Chapel Sawgrass. Access to the site is off SW 127th Avenue, a local road. Currently, there are no other Houses of Worship on this road. Both the Hanmi Baptist Church and the Calvery Chapel Sawgrass are accessed off Flamingo Road, a major arterial road. The applicant has submitted concurrently with this variance application rezoning application, ZB 9-2-05, requesting to rezone the 2.09 parcel site from A-1, Agricultural District, to CF, Community Facilities District.

PREVIOUS ACTIONS: At the October 18, 2006 Town Council meeting, Councilmember Starkey made a motion, seconded by Mayor Truex, to approve V 9-1-05 subject to the following conditions: a limit on the maximum number of people living on the premises shall be eight (8); that the property be deed restricted to only the Vietnamese Buddhist Cultural Center; if a sale takes place, the property shall revert back to A-1, Agricultural District, zoning designation; a Temporary Use permit, maximum four (4) per year, shall be required for special events and if a special event should exceed 100 people then a suitable alternative location shall be found. **(Motion carried 3-2 with Councilmember's Paul and Caletka being opposed. Councilmember Paul's opposition due to traffic concerns as a result of the expansion. Councilmember Caletka indicated that the proposed zoning change would not enhance the Town's tax base).**

At the November 1, 2006 Town Council meeting, Councilmember Starkey made a motion, seconded by Councilmember Paul, to reconsider Variance V 9-1-05. **(Motion carried 5-0).**

At the November 1, 2006 Town Council meeting, Councilmember Starkey made a motion, seconded by Councilmember Paul, to table Variance V 9-1-05 and Rezoning ZB 9-2-05 to the November 15, 2006 Town Council meeting. **(Motion carried 5-0).**

CONCURRENCES: At the September 27, 2006 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Ms. Turin, to approve. (Motion carried 4-1 with Vice-Chair McLaughlin being opposed. Vice-Chair McLaughlin's reasons for denial include not meeting the required distance

from existing Houses of Worship and the opposition to removing A-1 zoning district to accommodate CF.)

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration subject to the following condition:

1. Contingent upon approval of Rezoning application, ZB 9-2-05, submitted concurrently with this Variance application.

Attachment(s): Planning Report, Justification letter, Survey, Location Map, Proposed Site 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:

Name: Vietnamese Buddhist Cultural Center
Address: 2321 SW 127th Avenue
City: Davie, FL 33325
Phone: (503) 957-7739

Petitioner:

Tina Franetic
4845 SW 148th Avenue
Davie, FL 33330
(954) 434-2299

Background Information

Date of Notification: September 20, 2006

Number of Notifications: 32

Application Request: Variance **FROM:** Section 12-34 (DD) of the Land Development Code, which requires that no freestanding house of worship shall be located closer than 2500' from any other freestanding house of worship. **TO:** Reduce the requirement so that the Vietnamese Buddhist Cultural Center is located 1609.64' from the Hanmi Baptist Church and 2310.54' from the Calvery Chapel Sawgrass.

Address/Location: 2321 SW 127th Avenue/Generally located on the westside of SW 127th Avenue approximately 970 feet north of SW 26th Street.

Future Land Use

Plan Map Designation: Residential (1 DU/AC)

Zoning: A-1, Agricultural District

Existing Use: Vietnamese Buddhist Cultural Center - one story mobile home, and one story garage

Proposed Use: 4,800 square foot house of worship

Parcel Size: 2.09 acres

Surrounding Future Land Use Plan Map

Designations:

Surrounding Uses:
North: Nursery
South: Single family dwelling
East: Nursery and single family dwelling
West: Nursery

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

Surrounding Zoning:

North: A-1, Agricultural District
South: A-1, Agricultural District
East: AG, Agricultural District
West: A-1, Agricultural District

Zoning History

Plat: The plat, Flamingo Groves Unit ‘E’, was approved by Broward County on February 23, 1929, and subsequently recorded in Plat Book 15, Page 5.

Concurrent requests on same property: Rezoning Application, ZB 9-2-05, requesting to rezone the 2.09 acre subject site **FROM:** A-1, Agricultural District; **TO:** CF, Community Facilities District.

Related Variance Requests: The Variance, V 2-2-02 Pem-Mar Assembly, from Section 12-34 (DD) of the Land Development Code which states, no freestanding house of worship shall be located closer than 2,500 feet from any other freestanding house of worship, measured from the nearest point on the nearest property line of one house of worship to the nearest point of the nearest property line of another house of worship in a straight line; to reduce the distance separation between houses of worship to zero (0) feet, was approved by Town Council on May 15, 2002.

The Variance, V 2-1-02 Hanmi Baptist Church, from Section 12-34 (DD) of the Land Development Code which states, no freestanding house of worship shall be located closer than 2,500 feet from any other freestanding house of worship; to reduce the minimum separation to 2,300 feet, was approved by Town Council on February 19, 2003.

Application Details

The applicant is requesting a variance from Section 12-34 (DD) of the Land Development Code to reduce the requirement of a 2500 foot separation between freestanding houses of worship so that the existing Vietnamese Buddhist Cultural Center can be located 1609.64’ from the Hanmi Baptist Church and 2310.54’ from the Calvery Chapel Sawgrass. The applicant has submitted concurrently with this variance application rezoning application, ZB 9-2-05, requesting to rezone the 2.09 parcel site from A-1, Agricultural District, to CF, Community Facilities District.

Applicable Codes and Ordinances

DIVISION 2. GENERAL REGULATIONS

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

DIVISION 3. DETAILED USE REGULATIONS

§12-34 (DD) Churches, Houses of Worship: No freestanding house of worship shall be located closer than twenty-five hundred (2500) feet from any other freestanding house of worship, measured from the nearest point on the nearest property line of one house of worship to the nearest point of the nearest property line of another house of worship in a straight line. The applicant shall furnish a certified survey from a land surveyor registered in the State of Florida, indicating the distance between the property lines of the proposed house of worship and any other house of worship.

Comprehensive Plan Considerations

Planning Area: 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, Community Facilities Use, Policy 13-2:* Community Facilities may be permitted in land use categories other than Community Facilities category, provided such development is compatible with and does not adversely affect the development of surrounding land for designated purposes.

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.

Staff Analysis

The applicant is requesting a variance from Section 12-34 (DD) of the Land Development Code which requires a 2500 foot separation between freestanding houses of worship. The Vietnamese Buddhist Cultural Center is currently located 1609.64' from the Hanmi Baptist Church and 2310.54' from the Calvery Chapel Sawgrass.

The intent of the 2,500 foot separation between freestanding Houses of Worship required by the Land Development Code is to discourage the concentration of this use which has specific peak volume traffic impacts. Access to this site is off SW 127th Avenue, a local road. Currently there are no other Houses of Worship on this road. Both the Hanmi Baptist Church and the Calvery Chapel Sawgrass access off Flamingo Road, a major arterial road.

As part of the rezoning application, ZB 9-2-05, submitted concurrently with the variance application, the applicant has agreed to paving on the one half portion of the roadway of 127th Avenue immediately adjacent to the eastside of the property, the construction of the nearest paved road to the south. ; ~~and pledged to contribute to the "local road and traffic calming fund".~~

Findings of Fact

Variances:

Section 12-309(B) (1):

The following findings of facts apply to the variance request:

- (a) There are not special circumstances or conditions applying to the land or building for which the variance is sought;

The 2.09 acre site is owned by and currently houses the Vietnamese Buddhist Cultural Center. The existing facility as well as the proposed construction of a 4,800 square foot House of Worship requires a variance due to the parcel's proximity to the Hanmi Baptist Church and the Calvery Chapel Sawgrass which is less than the required 2,500 ft separation..

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 required 2,500' separation between all free standing Houses of Worship applies equally to all Houses of Worship.

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

The site is currently the home of the Vietnamese Buddhist Cultural Center and as a result the site is not in compliance with Section 12-34 (DD) of the Land Development Code which requires a 2,500' separation between all free standing Houses of Worship. Without approval of the Variance, the applicant could not rezone the property to CF, Community Facilities District, and build a House of Worship.

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

The need for the variance is created by the owner's desire to locate a House of Worship closer than 2,500 feet from two (2) other existing Houses of Worship.

- (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.

Currently, the facility on the site known as the Vietnamese Buddhist Cultural Center is not in compliance with Section 12-34 (DD) of the Land Development Code being that it is located closer than 2,500 feet from two (2) other Houses of Worship. Granting of the variance is not necessary for the reasonable use of the land, since reasonable use (excluding a House of Worship) can be achieved without a variance. The request is the minimum needed to permit a House of Worship and is consistent with the actual distance measured from the nearest point on property line of the Vietnamese Buddhist Cultural Center to the nearest point of the nearest property line of both the Hanmi Baptist Church and the Calvery Chapel Sawgrass.

- (c) Granting of the requested variance 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. The section of Code for which the variance is sought pertains to two (2) freestanding Houses and Worship that are not directly adjacent to the site and for which access is off Flamingo Road. Access to this site is off SW 127th Avenue, a local road. Currently there are no other Houses of Worship on this road. The applicant has agreed to paving on the one half portion of the roadway of 127th Avenue immediately adjacent to the eastside of the property, the construction of the nearest paved road to the south, ~~and pledged to contribute to the "local road and traffic calming fund"~~. In addition, the applicant will be required to comply with the landscaping and development standards of the Land Development Code to include landscape buffering, street trees, minimum lot area, minimum lot frontage, minimum setbacks, maximum height, and maximum building coverage. The proposed site plan for a 4,800 sq. ft. worship building places the worship building in the center of the site, the furthest portion of the site from residential and also places a proposed retention pond on the southern part of the site further buffering the building from residential.

Staff Recommendation

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

1. Contingent upon approval of Rezoning application, ZB 9-2-05, submitted concurrently with this Variance application.
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Planning and Zoning Board Recommendation

At the September 27, 2006 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Ms. Turin, to approve. (Motion carried 4-1 with Vice-Chair McLaughlin being opposed. Vice-Chair McLaughlin's reasons for denial include not meeting the required distance from existing Houses of Worship and the opposition to removing A-1 zoning district to accommodate CF.)

Town Council Action

Exhibits

1. Justification letter
2. Survey
3. Location Map
4. Proposed Site Plan
5. Future Land Use Plan Map
6. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

August 23, 2005

Town of Davie

Re: Vietnamese Buddhist Cultural Center of Florida, Inc.
Thanh Pham, President
2321 SW 127 Avenue
Davie, Florida 33325
ID #504014010531

This is a rezoning and variance request for the 2.09 acres located on the East 276 feet of tract 181, Flamingo Groves unit 'E'. I am writing this letter on behalf of the Vietnamese Buddhist Cultural Center of Florida Inc., a facility that caters to an ancient worship of peace and tranquility. Currently there are approximately 28 members and their families who visit the property to enjoy the peaceful setting and meditation.

The Vietnamese Buddhist Cultural Center of Florida has occupied this property since October 2004 with the approval of our Mayor, Mayor Truex. They have made a conscious effort to meet their neighbors and everyone is happy and getting along beautifully. In order for the members of the Cultural center to continue worship, they need the support of The Town of Davie. Services will be in Vietnamese. Because of this, the facility is estimated to grow to a maximum of 200 to 250 members within the next ten years. A future 4,800 square foot building will be more than adequate. Their plea today, is to present a site plan for the possible re-zoning of their property to Community Facility.

The rezoning will not affect the living conditions in the neighborhood because the members do not meet daily. The proposed change would not create an isolated zoning district, the adjacent properties are compatible to what we are trying to accomplish. We also understand that there needs to be at least 2500 feet between Houses of Worship. "The Hamni Baptist Church" is 1609.64 feet away, and "The North Calvery Church" is 2310.54 feet away, we are also asking for a variance.

Enclosed you will find a check in the amount of \$1,170 for zoning, and a check in the amount of \$930 for the variance. Please consider their plea. The Vietnamese Buddhist Cultural Center members are active contributing citizens of our great Town of Davie.

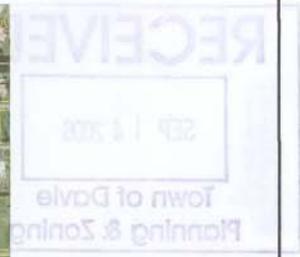
Thank you for your time and we look forward to hearing from you soon.



Tina Franetic
On behalf of Thanh Pham, President
Vietnamese Buddhist Cultural Center of FL Inc.

LOCATION MAP

SCALE: N.T.S.



2321 S.W. 127th Avenue 2005 Aerial Photograph
Broward County Public Records

Survey Date: 09/06/2005 Field Book: 05-0193
Job Number: 05-0193 Revision:

R. Minguell, Inc.

Land Surveyors & Planners
L.B. 7272
954-880-0908
Fax: 954-880-0920
Minguell@bellsouth.net
2841 Montevideo Avenue
Cooper City, Florida 33026

Certified to:
Vietnamese Buddhist Cultural Center of Florida, Inc.

I hereby certify that upon physical inspection of the three properties, that the strait line distance between the closest point on property line between the two properties are as follows:

2321 S.W. 127th Avenue, Davie, Florida to 1775 S. Flamingo Road : 2310.54 feet
2321 S.W. 127th Avenue, Davie, Florida to 2150 S. Flamingo Road : 1609.64 feet

This Survey has been prepared for the exclusive use of the entities named hereon and do not extend to any unnamed parties.
NOT valid without the signature & raised seal of a Florida licensed surveyor & mapper

Richard J. Minguell
Registered Land Surveyor & Mapper
No. 6402, State of Florida

TABLE DATA

SECTION NO. (P)
 PREPARED BY: [Name]
 DATE: [Date]

GENERAL NOTES

1. ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED.

2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE INTERNATIONAL RESIDENTIAL CODE (IRC).

3. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL JURISDICTION.

4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND CONDITIONS OF THE SITE PRIOR TO CONSTRUCTION.

5. ALL UTILITIES SHALL BE DEPTH MARKED AND PROTECTED PRIOR TO CONSTRUCTION.

6. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

7. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL AUTHORITY.

8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR RESTORING ALL AREAS DAMAGED DURING CONSTRUCTION TO ORIGINAL OR BETTER CONDITION.

9. ALL EXISTING UTILITIES SHALL BE DEPTH MARKED AND PROTECTED PRIOR TO CONSTRUCTION.

10. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

11. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL AUTHORITY.

12. THE CONTRACTOR SHALL BE RESPONSIBLE FOR RESTORING ALL AREAS DAMAGED DURING CONSTRUCTION TO ORIGINAL OR BETTER CONDITION.

PROPERTY INFORMATION

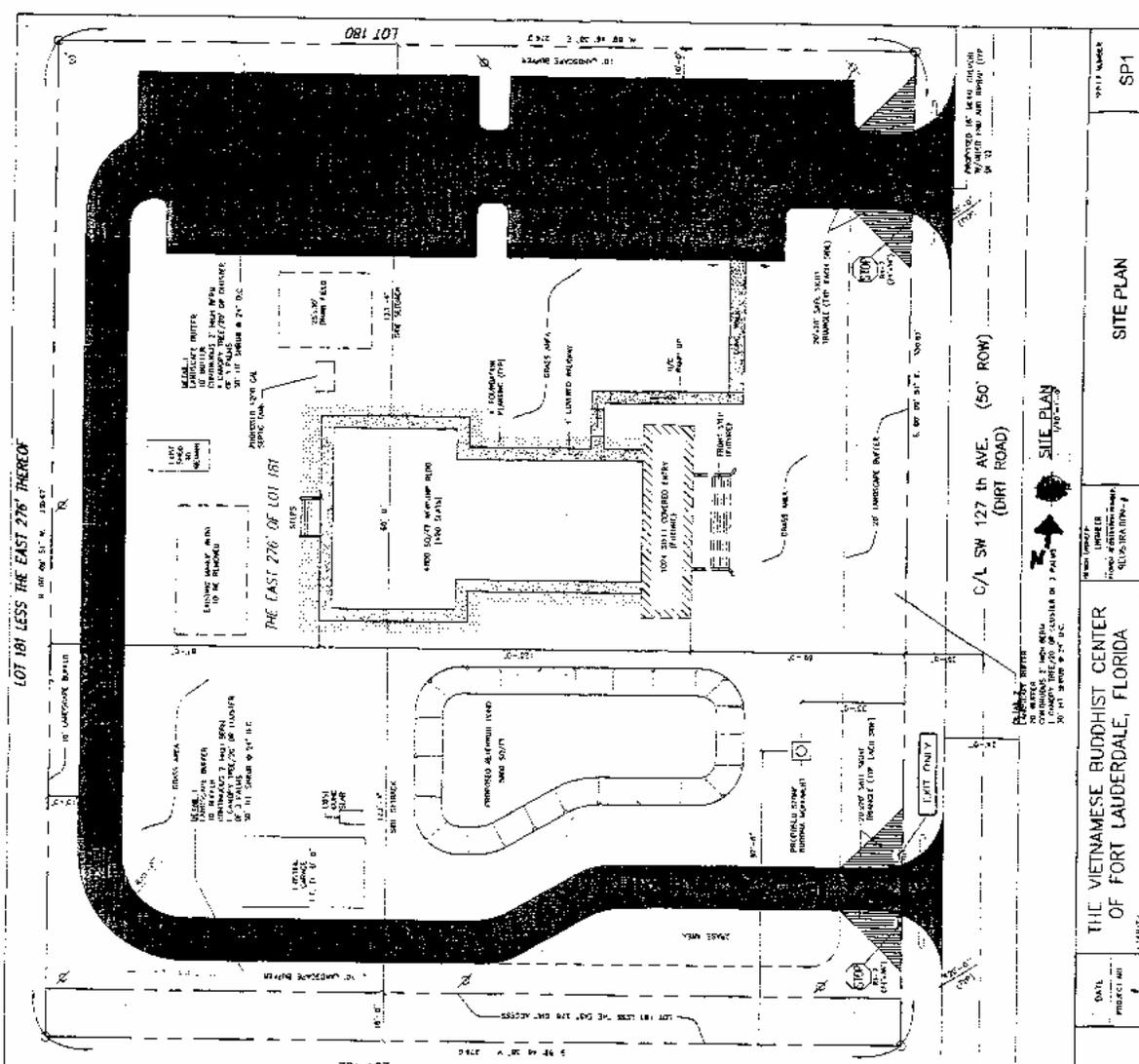
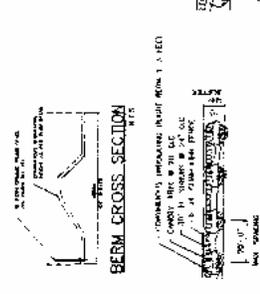
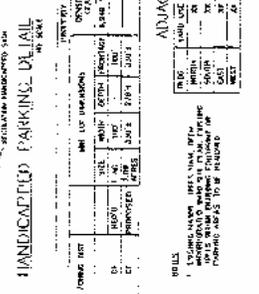
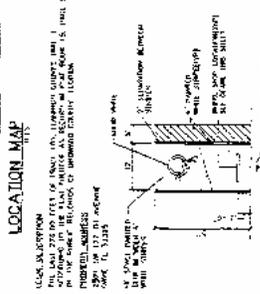
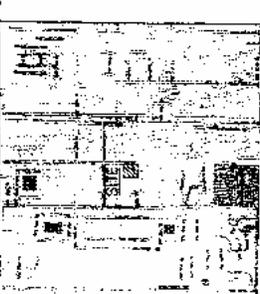
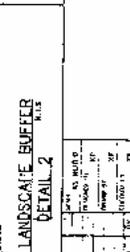
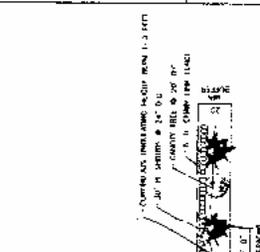
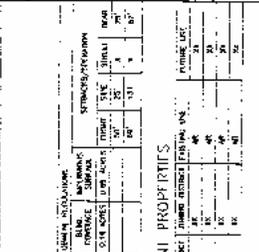
OWNER: [Name]
 PROJECT: [Name]
 ADDRESS: [Address]
 CITY: [City]
 COUNTY: [County]
 STATE: [State]

BUILDING SETBACKS

FRONT: 10'-0" (10'-0" MINIMUM)
 REAR: 10'-0" (10'-0" MINIMUM)
 SIDE: 5'-0" (5'-0" MINIMUM)

ADJACENT PROPERTIES

PROPERTY	OWNER	ADDRESS	CITY	COUNTY	STATE
10' LANDSCAPE BUFFER	[Name]	[Address]	[City]	[County]	[State]
20' LANDSCAPE BUFFER	[Name]	[Address]	[City]	[County]	[State]



THE VIETNAMESE BUDDHIST CENTER OF FORT LAUDERDALE, FLORIDA

DATE: [Date]
 PROJECT: [Project Name]

SCALE

1" = 10'-0"

REVISIONS

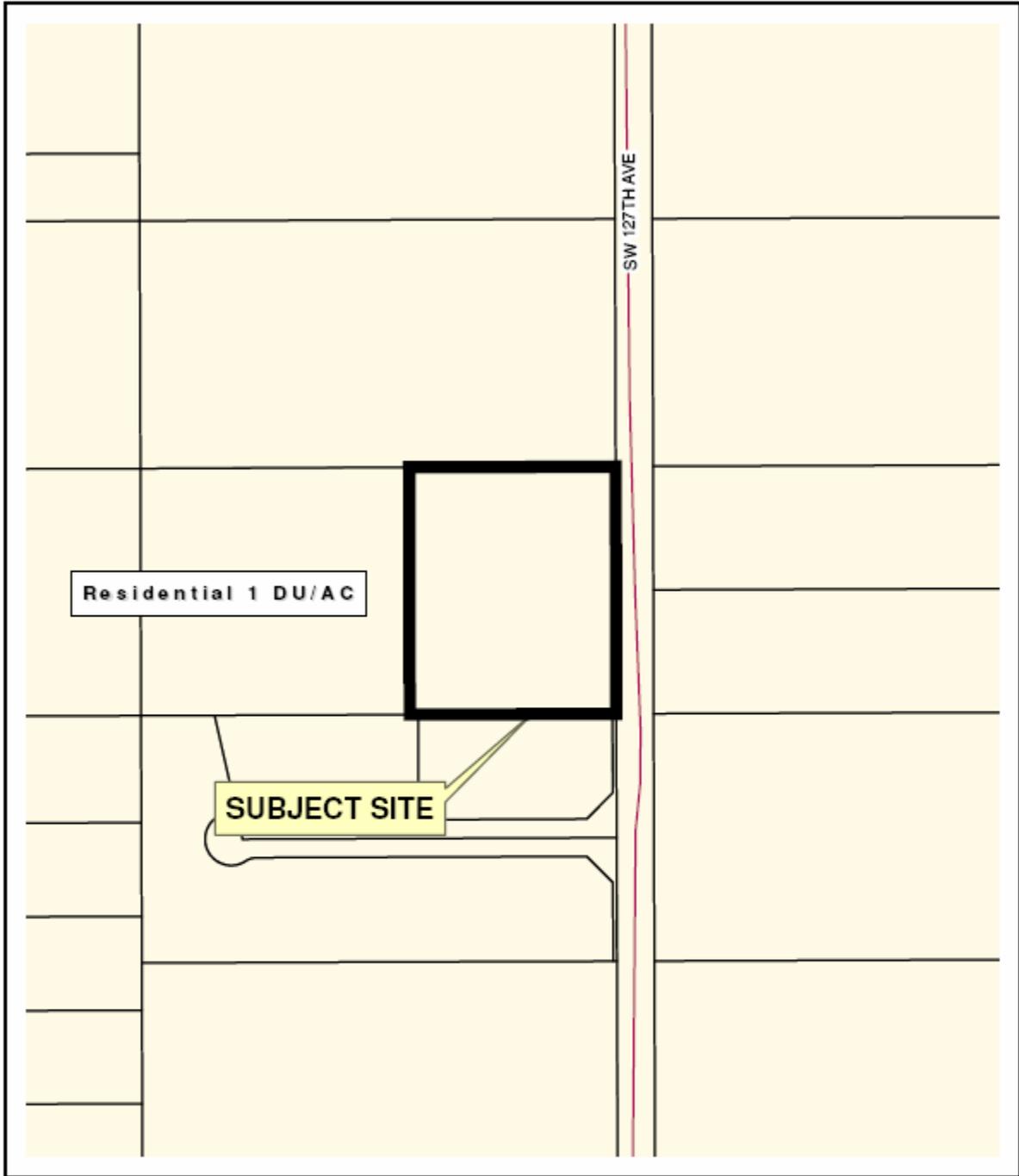
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APPROVALS

DESIGNER: [Signature]
 CHECKED: [Signature]
 APPROVED: [Signature]

PROJECT INFORMATION

PROJECT NO.: [Number]
 SHEET NO.: [Number]

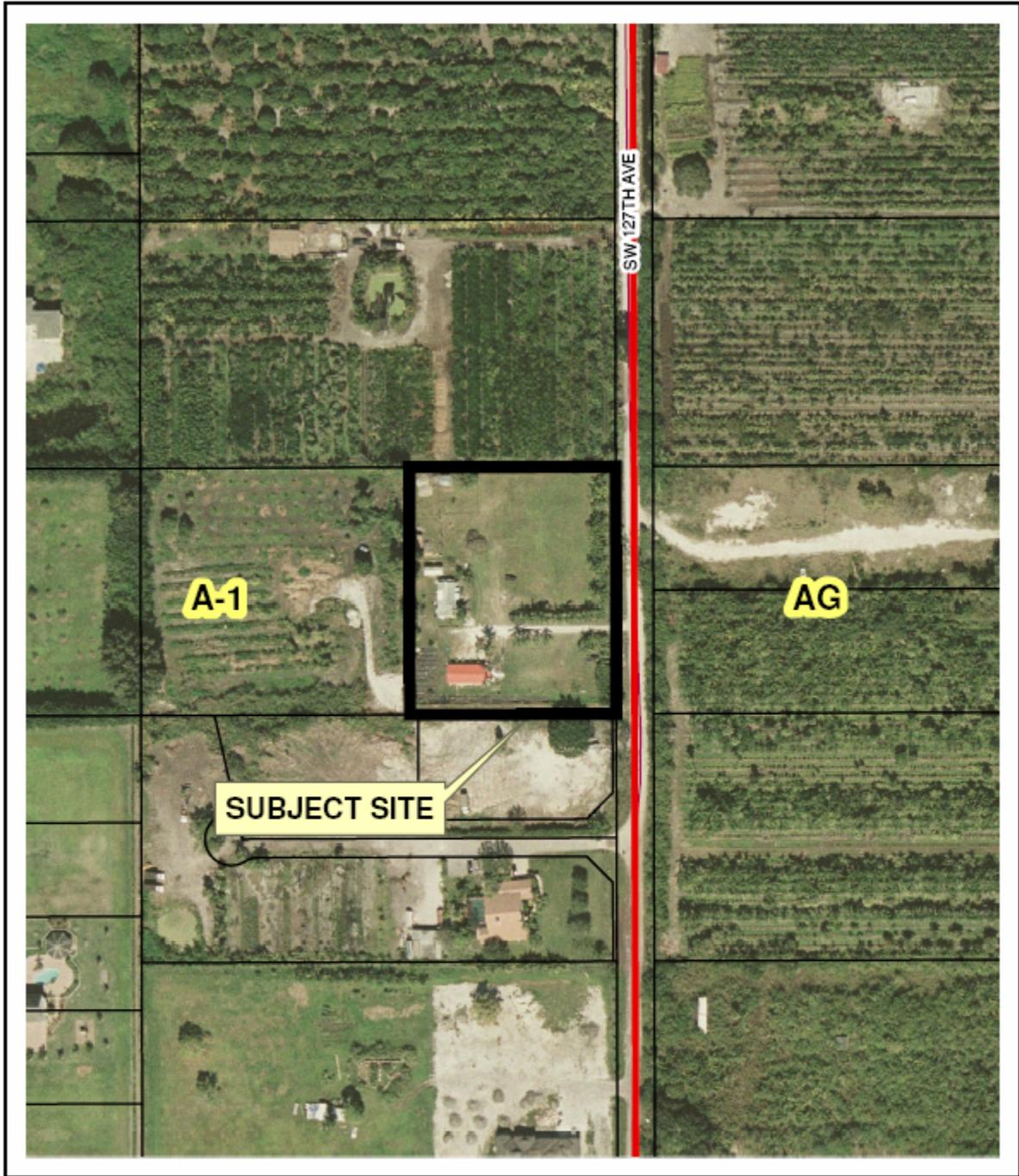


0 100 200 400 Feet

Prepared by the Town of Davie GIS Division

**Variance
V 9-1-05
Future Land Use Map**

Prepared by: ID
Date Prepared: 9/5/06



Date Flown:
12/2004



0 100 200 400
Feet

Prepared by the Town of Davie GIS Division

Variance
V 9-1-05
Zoning and Aerial Map

Prepared by: ID
Date Prepared: 9/5/06

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