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• DAVIE, FLORIDA 33314-3399  
PHONE: 954.797. • FAX: 954.797. • WWW.DAVIE-FL.GOV

**MEMORANDUM**

PZ 11-9-06

**To:** Mayor and Town Council Members  
**Thru:** Bruce Dell, Planning & Zoning Division Manager  
Mark Kuntney, Development Services Director  
Ken Cohen, Interim Town Administrator  
**From:** Philip Bachers, Planner, Planning & Zoning Division  
**Date:** November 9, 2006

**Re:** *V 7-3-06 variance, Edward & Melissa Murck*

**Request:**

The Town Clerk is requesting that the above referenced item, currently scheduled on the November 15, 2006 Town Council meeting be tabled to the December 6, 2006 meeting.

**History:**

None

**Justification:**

Due to the number of items on the November 15, 2006 Town Council agenda, the Town Clerk has asked for the variance application to be tabled to the December 6, 2006 Town Council Agenda.

**Attachment:**

none

# 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: Philip Bachers, Planner I

**SUBJECT:** Quasi Judicial Hearing: Variance, V 7-3-06 / 06-95/ Edward & Melissa Murck; 4910 SW 61 Ave

**AFFECTED DISTRICT:** District 1

**TITLE OF AGENDA ITEM:** Variance, V 7-3-06 / 06-95/ Edward & Melissa Murck

### REPORT IN BRIEF:

The petitioners are requesting a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum 40 foot front setback from the property line. Because of the location of the property being located along three (3) street frontages, under the Land Development Code there are three (3) “front setbacks,” (often referred to as “streetside setbacks,” to differentiate them from the one “front setback” for the parcel). The variances are to allow a front property setback of thirty feet one inch (30 feet 1 inch) for an addition on the northwest elevation front property setback; to allow a front property setback of twenty-five (25) feet for an addition on the northeast elevation front property setback; to allow front property setbacks of thirty (30) feet for additions on the south elevation front property setback (two instances); and to allow a front property setback of twenty-nine point nine (29.9) feet for an addition on the east elevation front property setback.

The subject site is a 0.80 acres (approx. 34,982 square feet) parcel of land approximately one-hundred sixty-five (165) feet in width by two hundred twelve (212) feet in depth, located on SW 61 Ave. and approximately in the vicinity of what would be SW 49 St. The land use for parcels adjacent to the south, east, and west of the subject site are all residential 1 dwelling unit per acre, and residential 3 dwelling units per acre to the north.

The petitioners are proposing to build residential living space additions to the existing residential home approximately one thousand six hundred sixty nine (1,669) square feet primarily along the north and east portions of the existing house. The original building front setback for this property was twenty-five (25) feet. The new residential additions as proposed would encroach into the Rural Lifestyle Initiative 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 minimum forty (40) feet front setback. These variances would reduce the required forty (40) feet front setback for the eastern elevation addition’s front setback by 10 feet 1 inch; by 10 feet on the south elevations’ additions front setbacks (two instances) from the required forty (40) feet front setback; by fifteen (15) feet on the northeast elevation’s addition from the required forty (40) feet

front setback, and by nine feet five (9 ft. 5 in.) inches for the proposed northwest elevation's addition from the required forty (40) feet front setback.

**PREVIOUS ACTIONS:**

**Planning & Zoning Board**, October 25, 2006

V 7-3-06, Murck, 4910 SW 61 Avenue (A-1 zoning).

Vice-Chair McLaughlin made a motion, seconded by Ms. Turin, to approve a 25-foot setback in the rear (to the north); a 30-foot setback to the east; and a 30-foot setback to the south, all being to the edge of the ingress, egress easements. **(Motion carried 5-0)** *Staff note: the P & Z Board wished to simplify the dimensions requested for the variances as was reflected in the whole-number distances in the motion which passed.*

**CONCURRENCES:**

None

**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 Letter; Survey and Expansion Plan; Future Land Use Plan Map; Subject Site, Zoning and Aerial Map

**TOWN OF DAVIE**  
**Development Services Department**  
**Planning and Zoning Division**  
*Staff Report and Recommendation*

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**Applicant Information**

**Owner / Petitioner:**

**Name:** Edward & Melissa Murck  
**Address:** 4910 SW 61 Ave.  
**City:** Davie, Florida 33314  
**Phone:** (954) 347-2663

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**Background Information**

**Date of Notification:** October 15, 2006  
75  
**Number of Notifications:**

**App. History:** None

**App. Request:** Variance **FROM:** Section 12-287 (B) of the Land Development Code, which requires a front property setback of forty (40) feet; **TO:** Allow a front property setback of twenty-five (25) feet for an addition on the northeast elevation front property setback; to allow a front property setback of thirty feet seven inches (30 feet 7 inches) for an addition on the northwest elevation front property setback; to allow front property setbacks of thirty (30) feet for additions on the south elevation front property setback (two instances); to allow a front property setback of twenty-nine point nine (29.9) feet for an addition on the east elevation front property setback.

**Address/Location:** 4910 SW 61 Ave./ Generally located east of SW 61 Ave. and approximately in the vicinity of what would be SW 49 St.

**Future Land Use**

**Plan Map:** Residential 1 DU / Acre

**Existing Zoning:** A-1, Agricultural District

**Existing Use:** Single-Family Residential Dwelling Unit

**Parcel Size:** 0.80 acres (approx. 34,982 square feet)

## Surrounding Future Land Use Plan

### Map Designations:

**North:** Single-Family Residential  
**South:** Single-Family Residential  
**East:** Single-Family Residential  
**West:** Single-Family Residential

### Surrounding Uses:

Residential 3 DU / Acre  
Residential 1 DU / Acre  
Residential 1 DU / Acre  
Residential 1 DU / Acre

### Surrounding Zoning:

**North:** R-3, Low Density Dwelling District  
**South:** A-1, Agricultural District  
**East:** A-1, Agricultural District  
**West:** A-1, Agricultural District

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## Zoning History

**Related Zoning History:** Records indicate that the existing zoning classification for 1 dwelling unit per acre was in place at the time of annexation.

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## 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 140 feet, and maximum building coverage is 20%. The building setbacks shall be as follows for the A-1 zoning district: front 40-50 feet, street side 40 feet, rear 35 feet, and 35 feet maximum height.

Town Council approved the Rural Lifestyle Initiative (RLI) Regulations on October 16, 2002. Plans approved prior to the adoption of the RLI were allowed to be built at the dimensions approved when the structure was erected.

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## Comprehensive Plan Considerations

**Planning Area:** The subject property falls within Planning Area 9. This planning area is south of Griffin Rd. , generally north of Stirling Rd., east of SW 76 Ave., and west of the FL Turnpike. This area is predominantly in nature, with scattered low-density single-family residential development. Low profile commercial development lines the Griffin Rd., Davie Rd., and Stirling Rd. corridors. The Town is promoting redevelopment of the Griffin Rd. corridor via the Griffin Rd. Corridor Zoning Districts,

which will enhance the Town's non-residential tax base. Agricultural uses are expected to diminish on the coming year, succumbing to increased residential demands given the enhanced accessibility provided by the roadway expansion and easy access to the FL Turnpike. Commercial developments along the south side of Stirling Rd. are somewhat deteriorated and should be evaluated for potential redevelopment opportunities.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 102.

**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.

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### **Application Details**

The petitioners are requesting a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum 40 foot front setback from the property line, to allow a front property setback of thirty feet seven inches (30 feet 7 inches) for an addition on the northwest elevation front property setback; to allow a front property setback of twenty-five (25) feet for an addition on the northeast elevation front property setback; to allow front property setbacks of thirty (30) feet for additions on the south elevation front property setback (two instances); and to allow a front property setback of twenty-nine point nine (29.9) feet for an addition on the east elevation front property setback.

The subject site is a 0.80 acres (approx. 34,982 square feet) parcel of land approximately one-hundred sixty-five (165) feet in width by two hundred twelve (212) feet in depth, located on SW 61 Ave. and approximately in the vicinity of what would be SW 49 St. The land use for parcels adjacent to the south, east, and west of the subject site are all residential 1 dwelling unit per acre, and residential 3 dwelling units per acre to the north.

The petitioners are proposing to build residential living space additions to the existing residential home totaling approximately one thousand six hundred sixty nine (1,669) square feet primarily along the north and east portions of the existing house. The original building front setback for this property was twenty-five (25) feet. The new residential additions as proposed would encroach into the Rural Lifestyle Initiative building front and streetside 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 minimum forty (40) feet front setback. These variances would reduce the required forty (40) feet front setback for the eastern elevation addition's front setback by 10 feet 1 inch; by 10 feet on the south elevations' additions front setbacks (two instances) from the required forty (40) feet front setback; by fifteen (15) feet on the northeast elevation's addition from the required forty (40) feet front setback, and by nine feet five (9 ft. 5 in.) inches for the proposed northwest elevation's addition from the required forty (40) feet front setback.

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## Findings of Fact

### Variations:

#### **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 0.80 acre (approx. 34,982 square feet) parcel can support additions to the existing structure that do not require variances. However, the proposed additions to living space are placed primarily along the northwestern and northeastern portions of the existing house. The closest point of the proposed additions is approximately 123 feet from the neighboring house to the west, and approximately 71 feet from the house to the north. The parcel also has three street frontages which code requires be treated as "front" setbacks of 40 ft. and which are referred to in this document as "streetside" setbacks.*

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. Because of the sixty two and one-half (62.5) feet ingress/egress easement to the south of the house (partially occupied by SW 61 Ave and a lake); and the twenty five (25) feet ingress/egress easement to the east of the house, the available lot size is reduced to approximately 19,198 sq. ft. from the lot size of 34,982 sq. ft. This significantly impacts the area available for construction after imposing the setbacks for the streetside ("front") setbacks at the east and north sides of the parcel.*

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 three street frontages, development requires that these be treated as "front" setbacks (40 ft)., referred to here as "streetside" setbacks.*

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

*The need for variances is created by the owner's desire for the expansion to be located primarily on the northwestern and northeastern portions of the existing residential building, and the restrictions cited above by the parcel having three street frontages.*

- (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 northwest elevation building setback to be reduced from 40 feet to 30 feet 7 inches should not be detrimental to the adjacent properties, as the next closest residence is approximately 123 feet from the proposed addition. Allowing the northeast elevation building setback to be reduced from 40 feet to 25 feet should not be detrimental to the adjacent properties, as the next closest residence is approximately 70 feet from the proposed addition. Allowing the east-side building setback to be reduced from 40 feet to 29.9 feet should not be detrimental to adjacent properties, as the next closest dwelling to the east is approximately 87 feet from the proposed addition. Allowing the south-side proposed additions to be reduced to 30 ft. from the required 40 ft. should not be detrimental as the property fronts onto SW 61 Ave. here, and a small lake to the south of the avenue.*

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## 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. Murck, the property is approximately one-hundred sixty-five (165) feet in width by two hundred twelve (212) feet in depth. In review of the survey and residential expansion plan, it proposes residential additions to the northeast elevation, to the northwest elevation, to the southwest elevation, and to the southeast elevation. Staff concludes that these proposed additions could not be accommodated without the approval of variances.

Residential homes approved and/or built under the Old Davie Land Development Code (Chapter 20) in the A-1 District at the time of construction of this dwelling in 1972

(when the certificate of occupancy was issued), (prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations in 2002) had a 35 feet front building setback, 25 feet side building setback, and 25 feet streetside building setback.

The adopted RLI provides for a front setback dimension of 40 feet minimum. Granting a variance to allow a 30 foot front setback from the southern elevation ingress-egress easement line would result in approximately 35 feet from the single family dwelling to the pavement edge of SW 61 Ave. on the south side; 43 feet from the eastern elevation addition's closest point to the pavement on the east side; 30 feet from the closest point of the proposed northeastern elevation's addition to the pavement on the north, and 35 feet from the closest point of the proposed northwestern elevation's addition to the pavement on the north. There is no encroachment into required sight triangles by the proposed additions.

Thus, the requested setback reductions would only directly affect the houses to the north and to the east, would not exceed the required open space, and would be consistent with the original setbacks in place at the time the home was constructed.

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### **Staff Recommendation**

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

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### **Planning and Zoning Board Recommendation**

V 7-3-06, Murck, 4910 SW 61 Ave. (A-1)

Vice-Chair McLaughlin made a motion, seconded by Ms. Turin, to approve a 25-foot setback in the rear (to the north); a 30-foot setback to the east; and a 30-foot setback to the south, all being to the edge of the ingress, egress easements. **(Motion carried 5-0)** *Staff note: the P & Z Board wished to simplify the dimensions requested for the variances as was reflected in the whole-number distances in the motion which passed.*

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### **Town Council Action**

This meeting is tentatively scheduled for November 15, 2006.

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### **Exhibits**

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

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

## Exhibit 1 (Justification Letter)



Calvin, Giordano & Associates, Inc.  
EXCEPTIONAL SOLUTIONS

July 20, 2006

Mr. Philip Bachers, M.P.A.  
Planner I  
**Town of Davie Development Services Department**  
Planning & Zoning Division  
6591 Orange Drive  
Davie, FL 33314-3399

**RE: Two Variances for 4910 SW 61<sup>st</sup> Avenue**

Dear Mr. Bachers:

As per our pre-application meeting on July 10, 2006, I am submitting two (2) variance applications for the property located at 4910 SW 61<sup>st</sup> Avenue, Davie (Folio #5041-35-02-0066). The property owners, Edward and Melissa Murck, are proposing a modest addition to the existing single family structure on the property. Calvin, Giordano & Associates, acting as agent, seeks two setback variances in order for the building addition to commence.

Because the property abuts right-of-way on three of four sides, the Town of Davie Code of Ordinances dictates that "front yard" setback standards shall be the requirement on these three sides. The property is in Zoning District A-1, which has a current front yard setback requirement of 40-feet.

The home was originally built in 1973 and therefore is vested with setback requirements prior to revised A-1 zoning earlier this decade. The proposed addition, however, will require variances as it lays within the current front yard setback requirements as outlined in Section 12-287 (B) of the Code. In that context, we are requesting 3 "front yard setbacks" of 30-feet for 3 elevations of the building layout on the front (south) and side (west) of the property (variance application #1), and 1 "front yard setback" of 25-feet from the rear (north) of the property (variance application #2).

That right-of-way abuts three sides of the land, "special circumstances" as noted in Section 12-309 of the Code indeed apply. The unusual shape of the lot significantly restricts the reasonable use of the land.

Engineering  
Construction Engineering  
& Inspection  
Municipal Engineering  
Transportation Planning  
& Traffic Engineering  
Surveying & Mapping  
Planning  
Landscape Architecture  
& Environmental Services  
Construction Services  
Indoor Air Quality  
Data Technologies  
& Development  
Emergency Management  
Services

1800 Eller Drive, Suite 600  
Fort Lauderdale, FL 33316  
Phone: 954.921.7781  
Fax: 954.921.8807  
[www.calvin-giordano.com](http://www.calvin-giordano.com)

Fort Lauderdale

West Palm Beach

Orlando

Fort Pierce

Homestead

Line of site from right-of-way will not be obstructed in any way. Moreover, property owners in the neighborhood have no objection to the proposed addition, and have indicated so in the enclosed signed petitions.

Please review these two variance applications, and have them placed on the next available Planning & Zoning Board agenda.

Should you have any questions or concerns, I can be reached at 954-921-7781 ext. 6551 / [sreale@calvin-giordano.com](mailto:sreale@calvin-giordano.com). Many thanks in advance.

Sincerely,

**CALVIN, GIORDANO & ASSOCIATES, INC.**



Scott Reale  
Planner

Exhibit 2 (Survey and Expansion Plan)



LEGEND:

- A/C = AIR CONDITIONER
- B.E.C.D. = BROWARD COUNTY ENGINEERING DIVISION
- B.C.R. = BROWARD COUNTY RECORDS
- C.B.S. = CONCRETE BUILDING STRUCTURE
- CONC. = CONCRETE
- D.C.R. = DADE COUNTY RECORDS
- FNC. = FENCE
- FND. = FOUND
- IP = IRON PIPE
- IR/C = IRON ROD WITH CAP
- L.B. = LICENSED BUSINESS

LEGEND CONT:

- MON. = MONUMENT
- N/C = NAIL WITH CAP
- N&D = NAIL AND DISC
- O/S = OFFSET
- O.R.B. = OFFICIAL RECORDS BOOK
- PCP = PERMANENT CONTROL POINT
- P.B. = PLAT BOOK
- PG. = PAGE
- SEC = SECTION

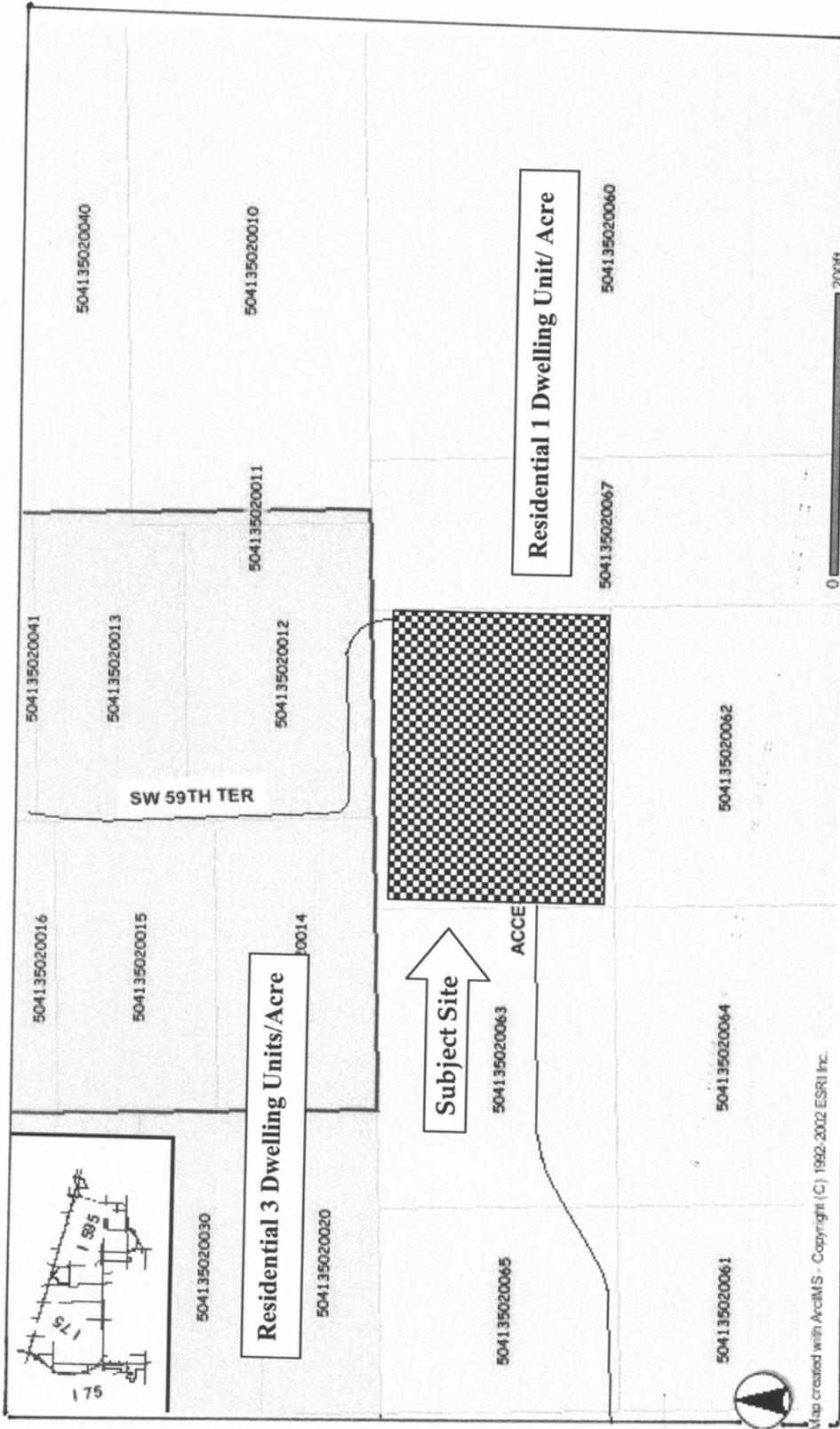


**Calvin, Giordano & Associates, Inc.**  
 Engineers Surveyors Planners  
 1809 Eller Drive, Suite 600  
 Fort Lauderdale, Florida 33316  
 Phone 954 921.7781 Fax 954 921.8607  
 Certificate of Authorization 6791

**PORTION OF TRACT 36  
 PLOT PLAN**  
 TOWN OF DAVIE, BROWARD COUNTY, FLORIDA

SCALE 1" = 30'	PROJECT No 06-6552	SHEET 2
DATE 07/18/2006	CAD FILE	OF 2

Exhibit 3 (Future Land Use Map)



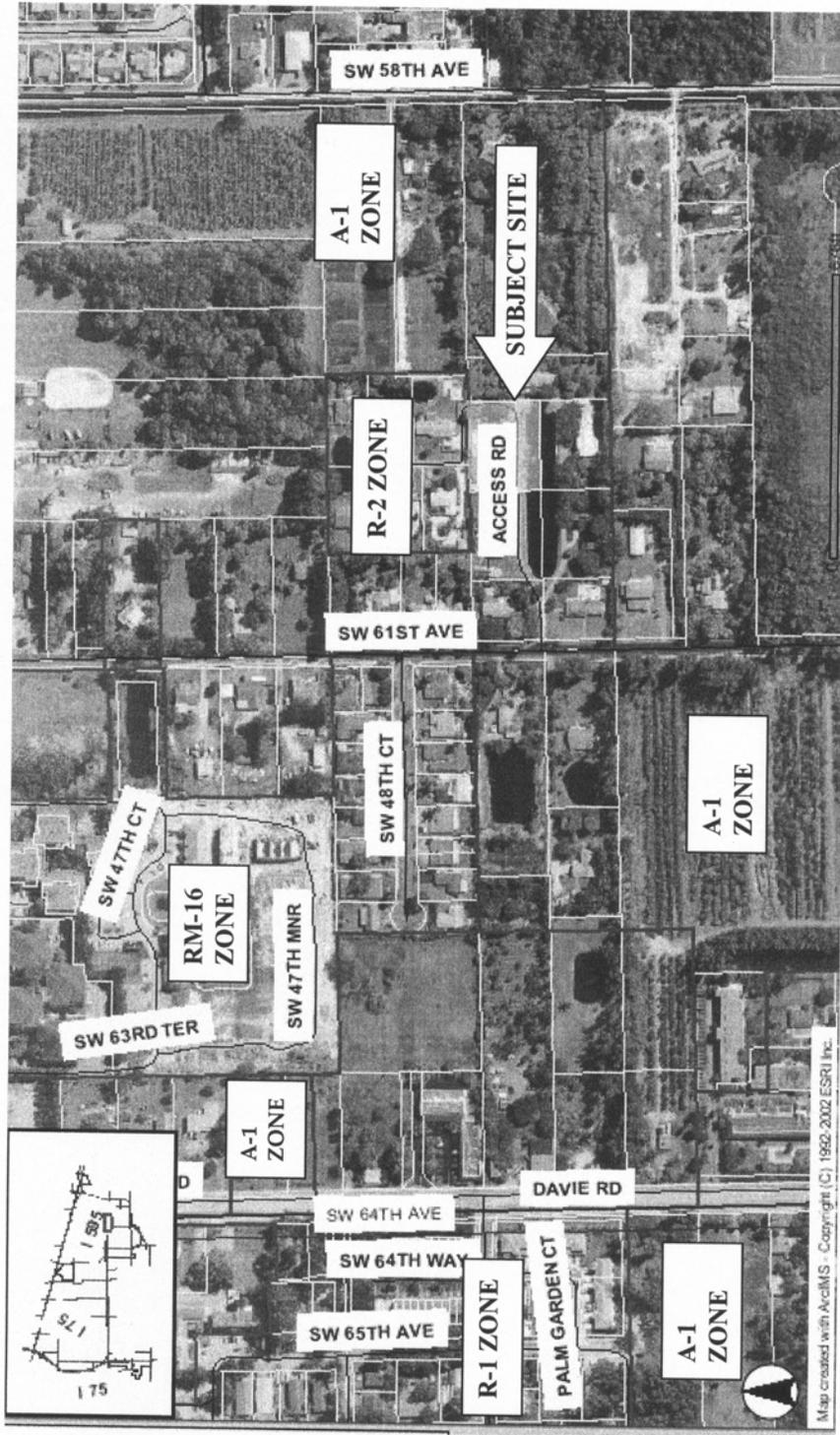
Variance Application V 7-3-06  
 Future Land Use Map  
 Murck, 4910 SW 61 Ave.



The Town of Davie  
 Development Services Department  
 Planning and Zoning Division

Map created with ArcGIS - Copyright (C) 1992-2002 ESRI Inc.

Exhibit 4 (Aerial, Zoning, and Subject Site Map)



Variance Application V 7-3-06  
Aerial, Zoning and Subject Site Map  
Murck 4910 SW 61 Ave.



The Town of Davie  
Development Services Department  
Planning and Zoning Division