

**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:** Lise Bazinet, Planner II

**SUBJECT:** Quasi Judicial Hearing: Variance, V 5-1-07 / 07-83/Davie Lakes  
(Donald & Martha Peak)/8320 SW 55<sup>th</sup> Court/Generally located on 55th Court between  
S. Pine Island Road and SW 82nd Avenue.

**AFFECTED DISTRICT:** District 2

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** V 5-1-07 / 07-83/Davie Lakes (Donald & Martha Peak)

**REPORT IN BRIEF:** The property is located within R-3, Low Density Dwelling District. The petitioner is requesting a setback variance to reduce the required side setback from fifteen (15) to eight (8) feet. Records indicated the existing residence was built between late 1970's and early 1980's. In 1982, new setbacks were adopted for R-3 zoning district changing the side setback from 7.5 feet to 15 feet. Therefore, the subject property is considered legal non-conforming.

The property is a single family residence. The request is to maintain an existing side setback to allow the property owner make an addition to his existing residence. The proposed addition will maintain the already existing setback of the residence. The proposed setback variance will not affect the existing distance separation between properties.

**PREVIOUS ACTIONS:** n/a

**CONCURRENCES:**

At the August 8, 2007 Planning & Zoning Board meeting, Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve. **(Motion carried 4-0).**

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):**

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

**Attachment(s):** Planning Report



**Surrounding Uses:**

**Designations:**

**North:** Community facility  
**South:** Single-family residence  
Acre  
**East:** Single-family residence  
Acre  
**West:** Single-family residence  
Acre

**Use Plan Map**

Community Facility  
Residential 3 DU/  
Residential 3 DU/  
Residential 3 DU/

**Surrounding Zoning:**

**North:** CF, Community Facility District  
**South:** R-3, Low Density Dwelling District  
**East:** R-3, Low Density Dwelling District  
**West:** R-3, Low Density Dwelling District

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**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.

On October 5, 1978, Town Council adopted Ordinance No. 78-49 approving plat application known as “Davie Lake Estates”.

On December 15, 1982, Town Council adopted Ordinance No. 82-64 adopting new setback regulations for R-3 zoning and modifying the minimum side setback from 7.5 feet to 15 feet.

**Previous requests on same property:** n/a

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**Applicable Codes and Ordinances**

The effective Code of Ordinances governing this project is the Town of Davie Land Development Code.

*Land Development Code (Section 12-305), Rezoning, Special Permits, Variances, and Vacations or Abandonments of Rights-of-Way.* The purpose of this division is to guide the processing and granting of rezonings, special permits, variances and vacations or abandonments of rights-of-way in a manner consistent with the Town of Davie Comprehensive Plan, existing development and in a manner which protects the public health, safety and welfare.

*Land Development Code (Section 12-24 (I) (2)), State Dwelling (R-1) District.* The R-1 District is intended to implement the Agricultural and Residential one (1) unit per acre classifications of the Town of Davie Comprehensive Plan and to provide estate residential areas with most of the noncommercial agricultural uses permitted providing a transition from agricultural land to residential dwelling units.

*Land Development Code Section 12-81, Conventional Single-Family Development Standards.* R-3 zoning district setbacks are front 30 feet, side 15 feet, and rear 25 feet.

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**Comprehensive Plan Considerations**

**Planning Area:**

The subject property falls within Planning Area 10; this Planning Area is generally located north of Stirling Road, south of Griffin Road, east of Pine Island Road, and west of SW 76 Avenue. Pine Island Road, a major north/south arterial, on the western limits of this planning area provides through access from Griffin Road to Stirling Road.

Commercial development of retail centers and office buildings line the University Drive corridor. The east side of this corridor is predominantly small-scale commercial development, with multi-family residential development (one existing, one proposed) and plant nurseries on the northern half of the corridor, and commerce park development and cattle grazing on commerce park-zoned lands on the southern half. Commercial development also exists along Griffin

Road within this planning area. Several small-scale single-family residential communities, two trailer parks totaling approximately 30 acres in area, and an 8 acre industrial park are located within this planning area, together with six parcels zoned for community facilities uses. These include, but are not limited to, a regional library, multiple church uses varying scales, a Girl Scout campground facility, and a private school.

**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.

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**Application Details**

The property is located within R-3, Low Density Dwelling District. The petitioner is requesting a side setback variance to reduce the required side setback from fifteen (15) to eight (8) feet.

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**Staff Analysis**

The following information is staff's analysis based on the criteria established in the Town of Davie's, Land Development Code, Section 12-309(B)(1) for variance applications:

- (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 apply generally to land or buildings in the same district;

*In 1982, new setbacks were adopted for R-3 zoning district changing the side setback from 7.5 feet to 15 feet. Therefore, the development is considered legal non-conforming as well as any R-3 zoning district established prior to 1982.*

and that said circumstances or conditions are 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;

and that alleged hardship is not self-created by any person having an interest in the property.

*The special circumstances were not self-created. The property is legal not conforming; therefore the existing setbacks were permitted at one time, but not longer meet the requirements of the current Land Development Code. The petitioner is requesting maintaining the existing side setback to add to the existing structure.*

- (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;

*The requested variance is not necessary for the reasonable use of the land or building. The request is to maintain the existing setback of the residence to allow the property owner to enclose an already existing patio area.*

- (c) Granting of the requested 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.

*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 proposed addition will maintain the already existing setback of the residence. The proposed setback variance will not affect the existing distance separation between properties.*

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### **Staff Recommendation**

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

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

At the August 8, 2007 Planning & Zoning Board meeting, Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve. **(Motion carried 4-0).**

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### **Town Council Action**

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### **Exhibits**

1. Justification letter
  2. Property Survey
  3. Site Plan, Floor Plan & Elevation of Addition
  4. Future Land Use Plan Map
  5. Zoning and Aerial Map
  6. Neighbor Correspondence
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Prepared by: \_\_\_\_\_

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

**Exhibit 1 (Justification letter)**

Donald & Martha Peak  
8320 SW 55 Court  
Davie, FL 33328

May 02, 2007

We are attempting to get a variance to enclose a porch that already has two walls and a roof.

We submitted plans to that affect in January 2007, but we were denied. This enclosure would definitely beautify our home and we would benefit with the two small rooms.

Apparently since the time our house was built, zoning has changed to a R-3. I was told by zoning R-3 requires 15 feet set backs.

Sincerely,

*Donald Peak*  
*Martha D. Peak*

Donald & Martha Peak

RECEIVED

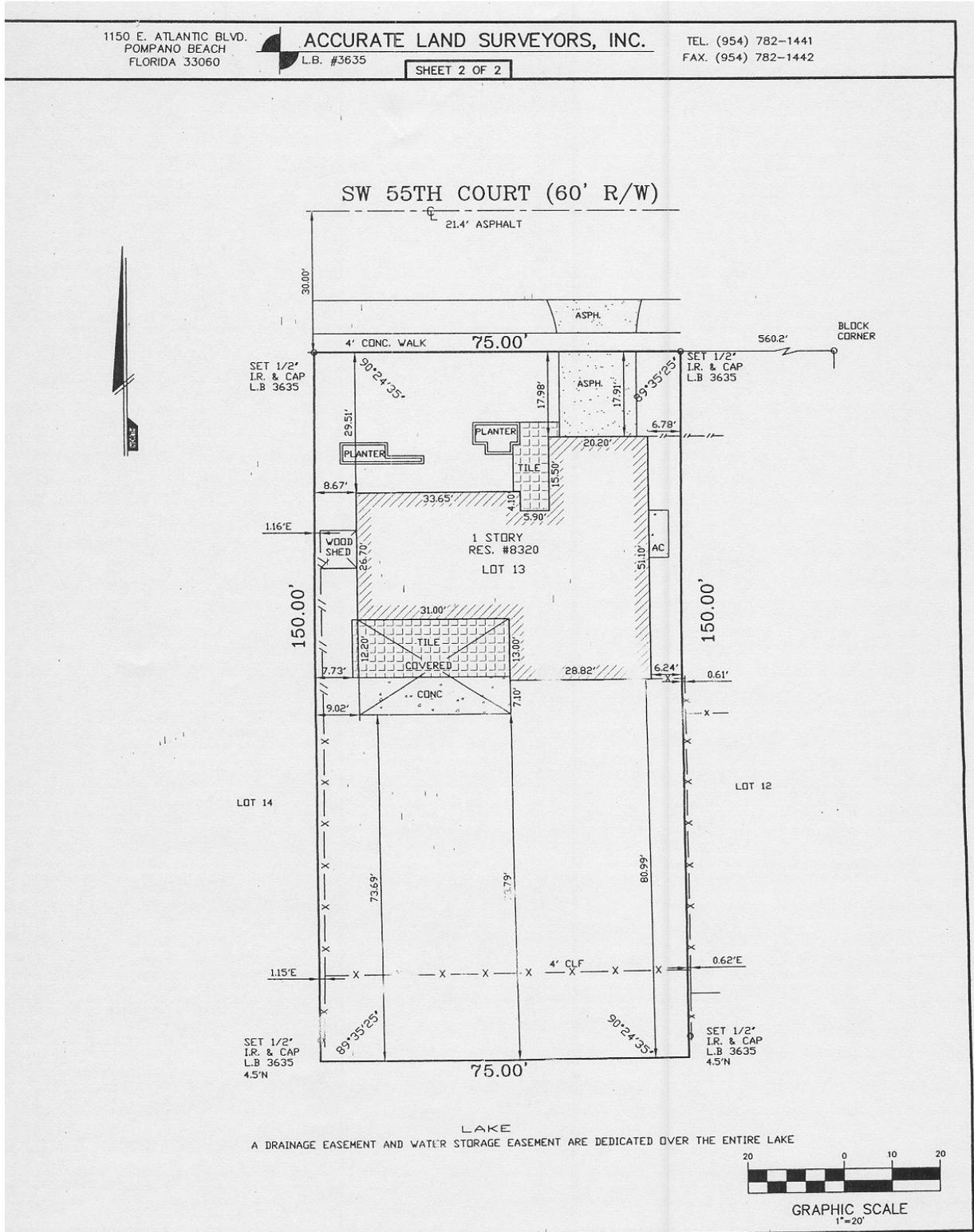
**Exhibit 2 (Property Survey)**

1150 E. ATLANTIC BLVD.  
POMPANO BEACH  
FLORIDA 33060

**ACCURATE LAND SURVEYORS, INC.**  
L.B. #3635

TEL. (954) 782-1441  
FAX. (954) 782-1442

SHEET 2 OF 2



**Exhibit 3 (Site Plan, Floor Plan & Elevation of Addition)**







Exhibit 4 (Future Land Use Plan Map)



Exhibit 5 (Zoning and Aerial Map)



**Exhibit 6 (Neighbor Correspondence)**

**TINA S. CULVER**

8330 S.W. 55th Court  
Davie, FL 33328

Residence: 954-252-5806

Email: [tinaculver@bellsouth.net](mailto:tinaculver@bellsouth.net)

TO WHOM IT MAY CONCERN:

I, Tina S. Culver live at 8330 SW 55 CT. Davie, FL 33328 and my neighbors, Donald & Martha Peak reside at 8320 SW 55 CT. Davie, FL 33328. They are planning on enclosing an existing porch to make a sitting & sewing room.

I have reviewed the plans dated December 14, 2006, #A1, A2 and A3 and am in agreement with their recommend changes.

Please feel free to contact me should you have any questions.

Sincerely,



Tina S. Culver