

TOWN OF DAVIE
PLANNING AND ZONING DEPARTMENT
PLANNING REPORT

April 29, 1999

SUBJECT: Variance V 2-1-99

APPLICANT: Dan Duckham, petitioner / The Janoura Group, Inc., owner

ADDRESS/LOCATION: 6851 Stirling Road / on the northeast corner of Stirling Road and SW 70th Avenue

LAND USE PLAN/ZONING: Commercial & Residential (2 du/ac) / B-1, B-2 & R-2

REQUEST: **From:** Section 12-83 which requires a minimum open space ratio of 30% in the B-2 district.

To: Reduce the required open space from 30% to 26.8%.

EXHIBITS TO BE INCLUDED: Variance application, subject site map, planning report, and aerial.

ANALYSIS: The subject site is a 13.7 acre parcel which is currently vacant. The site is bound on the north by single family homes zoned R-1 and R-2, on the south, across Stirling Road, by multi-family residential development zoned RM-16 and church use zoned CF, on the east by vacant land zoned B-2, and on the west by plant nursery use zoned A-1.

Where applicable, the review of a variance request should include consideration of the criteria noted in Section 12-309 of the Land Development Code which is attached hereto and made a part hereof.

Comprehensive Plan Policy 12-6 provides that land development regulations shall contain requirements for the preservation of open space in development to enhance working and living environments. Open space requirements attempt to balance the aesthetic character of development by providing requirements for open space, landscaping, and landscape bufferyards.

The petitioner is requesting a reduction in the required open space associated with the B-2 district to accommodate construction of the retail center on the south 8.7 acres of the 13.7 acre site. The 5 acre parcel, to the north, will be preserved as an open space wetland mitigation area to be maintained by the owner. The commercial site plan under consideration meets the requirements for perimeter bufferyards and interior open space but falls 3.2% short of the overall 30% requirement. The open space on the site plan is well distributed. When combined with the 5 acre preserve, the overall 13.7 acre site maintains 53.8 % open space.

The applicant has cited site conditions which apply to the site such as unusual

fill costs, extensive utility connection costs, wetland mitigation requirements, and right-of-way dedications and indicated special circumstances apply to this property that may not apply to other properties in the same district.

The requested variance represents a minimal reduction in the required open space for the commercial site but preserves the wetland mitigation area as open space to the benefit of adjacent residential properties and can be considered consistent with the general intent and purpose of the code.

RECOMMENDATION: The Planning and Zoning Department therefore recommends **APPROVAL** of the requested variance to reduce the required open space from 30% to 26.8% with a finding that the granting of the variance is in harmony with the general intent and purpose of the code.

PLANNING AND ZONING BOARD RECOMMENDATION: Motion to recommend **APPROVAL** subject to the preservation of the 5 acre open space wetlands areas (4-0, Mr. Pisula, absent), April 14, 1999.

EXISTING ZONING: B1B2 R2
 CODE SECTION:
 PROPOSED ZONING: N/A
 CODE SECTION:
 LAND USE DESIGNATION: Commercial
Residential
 FOLIO NUMBER 10134-01-02800 & 10134-01-02700

RECEIVED
 FEB 17 1999
 TOWN OF DAVIE
 PLANNING DEPARTMENT

TOWN OF DAVIE USE ONLY
 PETITION NO. VB-1-99
 FEE. 930.00
 RECEIPT NO. 7137

**TOWN OF DAVIE
 VARIANCE APPLICATION**

(NOTE: INFORMATION MUST BE TYPED AND NOTARIZED)
 Make Checks payable to TOWN OF DAVIE

DATE FILED: 2/17/99 PHONE: (954) 564-5730

PETITIONER: Dan C. Duckham

MAILING ADDRESS: 3197 NE 18th Terrace, Ft. Lauderdale, FL 33306

RELATIONSHIP TO PROPERTY: Architect

OWNER: The Janoura Group, Inc.

MAILING ADDRESS: 7764 NW 44th Street, Sunrise, FL 33351

ADDRESS OF PROPERTY: 6851 STIRLING RD.

LEGAL DESCRIPTION: (Certified Sealed Boundary Survey to include statement of amount of acreage involved MUST be submitted with application):

A Portion of Tract 18 and the South 1/2 of Tract 19 of Everglade Land Sales Co. in Section 34, Township 50 South, Range 41 East

ACREAGE: +/- 13.7

REQUEST: Variance for minimum open space equal to 26.8% of property when 30% is Req'd.

REASON FOR REQUEST: (attach additional sheet as necessary)
 See attached sheet

*** PETITIONER MUST BE PRESENT IN ORDER FOR ACTION TO BE TAKEN ***

OFFICE USE ONLY

APPROVED AS TO FORM: Pat PUBLICATION DATE: 3/10/99
 MEETING DATE: PLANNING AND ZONING BOARD: 3/24/99 TOWN COUNCIL: 4/21/99
 NOTICES SENT: 11A REPLIES: FOR: _____ AGAINST: 5/5/99
 UNDELIVERABLE: 7

CK#1029

Michael J. Janoura
OWNER'S NAME(S)

[Signature] Vice President
OWNER'S SIGNATURE (ALL OWNERS MUST SIGN)

7764 NW 44th St
ADDRESS

Sunrise FL 33351
CITY, STATE, ZIP

(954) 741-7620
PHONE

DAN C. DUCKHAM
PETITIONER'S NAME

[Signature]
PETITIONER'S SIGNATURE

217 NE 18th Terrace
ADDRESS

OKLAWO PARK, FL. 33306
CITY, STATE, ZIP

954-564-5730
PHONE

The foregoing instrument was acknowledged before me this 17 day of February, 1999, by Michael J. Janoura who is personally known to me or who has produced _____

as identification and who did take an oath.

NOTARY PUBLIC:

Sign: Judith Barton
Print: Judith Barton

My Commission Expires: JUDITH A. BARTON
COMMISSION # CC 501112
EXPIRES NOV 17, 1999
BONDED THRU
ATLANTIC BONDING CO., INC.



The foregoing instrument was acknowledged before me this 17 day of February, 1999, by Dan C. Duckham who is personally known to me or who has produced _____

as identification and who did take an oath.

NOTARY PUBLIC:

Sign: Judith Barton
Print: Judith Barton

My Commission Expires: JUDITH A. BARTON
COMMISSION # CC 501112
EXPIRES NOV 17, 1999
BONDED THRU
ATLANTIC BONDING CO., INC.



OFFICE USE ONLY

PLANNING AND ZONING BOARD RECOMMENDATION:

03/24/99 - tabled to 04/14/99 AMD

04/14/99 - approval subject to the preservation of the five acre open space wetlands area AMD

4/21/99 TC tabled to 5/15/99

Stirling Place Variance Request

The following will outline how this variance request to reduce the open space requirement meets the criteria for reviewing variance requests as outlined in the variance application packet.

There are a number of site generated problems connected with this project. Three main special circumstances that only indirectly effect this variance request are as follows:

- 1). Although we knew the site to be low, when cleared and topographical data obtained, we found that it require 4 to 5 feet of fill which is double that anticipated amount.

- 2). In order to flow with gravity, the required depth of the sanitary sewer runs dead center of a 72 inch diameter canal drainage pipe as it passes under Stirling Road. Lengthy appeals by our engineers, to penetrate the pipe without disrupting flow, have been denied by the county. The only alternative appears to be a large lift station, which is not only very expensive but also, perhaps even worse, a long-term maintenance nightmare.

- 3). Approximately 20% of the site has been determined to be wetlands. This came as a recent surprise because when the property was originally platted in 1989, no wetland characteristics were declared. Unfortunately that plat was allowed to expire. After further investigation by our team of engineers, it was determined that the wetlands were actually created when Stirling Road was improved because 3 of the 5 curb drains along the frontage do not go to the storm sewer system, but instead are piped underground and direct the storm water onto the site. In order to mitigate these wetlands, to allow use of the commercially zoned portion of the site, it is necessary to recreate a wetland of comparable size on the R-2 zoned portion to the north of the property. Approximately 5 acres will be tied to the project and will forever remain as open space.

The primary special circumstance that directly effects our ability to meet the strict application of the 30% overall open space requirement is the State required right-of-way dedications for deceleration and turning lanes along both Stirling Road and 70th Avenue. These dedications are specific to each site. The 70th Avenue turn lane serves no purpose because our clients have voluntarily agreed to have no access to/from the site on 70th Avenue. These dedications used valuable land that would have been utilized to satisfy our open space requirements. The total loss of land to the right-of-way dedications is 12,635 square feet or 3.4% of the total site. With the dedicated land included, the open space area increases to 30.23% satisfying the code requirement of 30%. It is not only a critical loss of potential open space area, but also seriously impacts the exceptionally long (east-west) and shallow (north-south) geometry of the site. The required perimeter landscape buffers combined with the dimensions for parking aisles and interior landscape

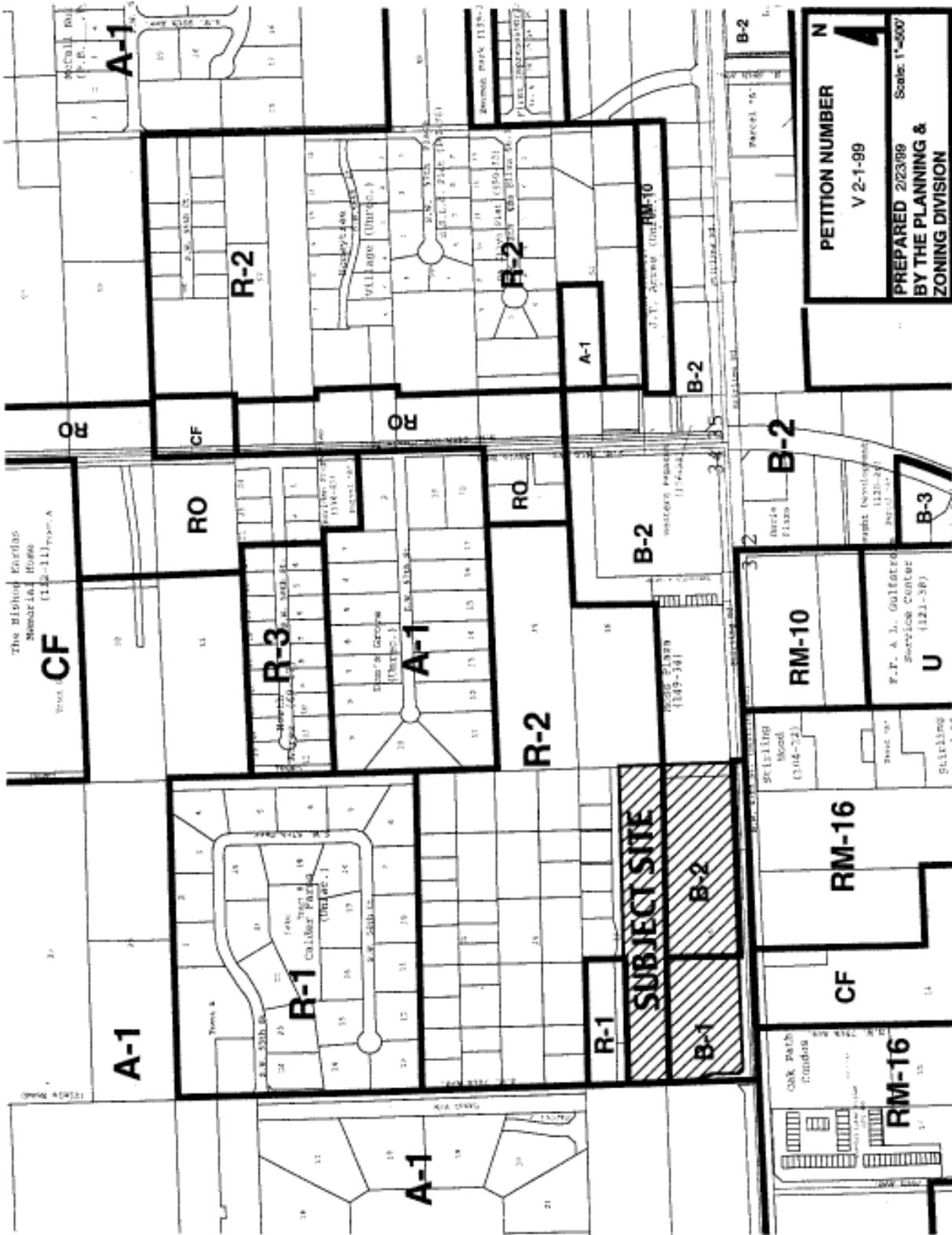
islands has totally exhausted all site depth and leaves no place to introduce more landscaping in the north-south direction. When trying to acquire more landscaping in the east-west direction the trade-off of building and parking area for landscape area is extremely disproportionate, eating up large areas of the building and parking lot and yielding only relatively minor increases in the open space calculation. This also results in large impractical open spaces to the east and west ends of the site and extra wide interior parking lot islands that would disrupt traffic flow. However, we have managed to exceed the 15% interior landscaped areas by 7300 square feet or 18.33%.

We are requesting a variance to approve 26.8% open space. This is 3.2% less than required or 11,816 square feet. The land lost to right-of-way dedication is 3.4% of the total site or 12,635 square feet. We determined the 26.8% figure by reducing the 30% open space requirement by the approximate area lost to right-of-way dedication and feel that the 3.2% reduction requested is the minimum variance that will result in allowing our clients the reasonable use of the land.

Additionally, we feel that granting this variance will be in harmony with the general purpose and intent of the zoning ordinance and will not be injurious to the neighborhood for the following reasons:

- 1). The interior landscape areas of 18.33% exceeds the required 15% by 7300 square feet.
- 2). The wetland mitigation on the R-2 portion of the site will assure that it will always be open space and will be continuously maintained as is required of wetland mitigation areas. This additional open space combined with the 26.8% open space on the subject site will total 53.8% of the total 13.4 acre site, far exceeding the required 30%. Although we are unable to use the 53.8% figure in our calculations because the two areas of the site have different zoning, the real world result to the neighborhood is 53.8% open space.
- 3). Most importantly, the open space figures of 18.33% of the paved area and 53.8% of the total area are also distributed in the parts of the site that benefit the neighborhood the most, upholding the main intent of the code. The open space areas have been weighted to the rear of the property and the west side that borders 70th Avenue where the project would most impact the neighborhood. This layout provides an extensive buffer between the proposed commercial development and the existing homes, thereby upholding the main intent of the Zoning Ordinance.

We believe that this is a case where the development, which does not quite meet the open space requirements on paper, will actually far exceed the intentions of the code.



PETITION NUMBER
V 2-1-89

PREPARED 2/23/89
BY THE PLANNING &
ZONING DIVISION

Scale: 1"=600'

The Bishop Kardas
Memorial Home
(112-111) Type A

CF

A-1

R-1

A-1

R-3

RO

R-2

R-2

R-1

SUBJECT SITE

B-1

B-2

RM-10

RM-16

CF

RM-16

U

B-2

B-2

B-2

PETITION NUMBER
V 2-1-89

PREPARED 2/23/89
BY THE PLANNING &
ZONING DIVISION

Scale: 1"=600'

B-3

F. A. J. GUILLETTO
Service Center
(122-58)

Stirling
Road 11

RM-10

RM-16

CF

RM-16

RM-16

RM-16

RM-16

RM-16

RM-16