



**CITY OF DANIA BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**DATE:** June 11, 2013

**TO:** Robert Baldwin, City Manager

**VIA:** Marc LaFerrier, AICP, Director *[Signature]*

**FROM:** Corinne Lajoie, AICP, LEED GA, Principal Planner *[Signature]*

**SUBJECT** **VA-13-13:** The applicant, Dwayne Dickerson with Fowler White Boggs P.A., on behalf of Walgreen Co., is requesting a variance for the sale of alcohol less than 1000 feet from a school or any other alcoholic beverage establishment for a property located at 501 E Sheridan Street.

**REQUEST**

**VARIANCE**

To allow for the sale of alcohol 945 feet from a school and approximately 450 feet from another alcoholic beverage establishment; code requires a minimum separation of 1,000 feet.

**PROPERTY INFORMATION**

<b>EXISTING ZONING:</b>	Commercial (C-2)
<b>LAND USE DESIGNATION:</b>	Commercial
<b>OVERLAY DISTRICTS:</b>	Principal Arterial Design District

The subject site is improved with an existing 15,032 square foot Walgreens store located on the north east corner of SE 5<sup>th</sup> Street and Sheridan Street. The applicant would like to sell a limited amount of beer and wine at this location. No store expansion is planned. Walgreens is proposing to use existing shelf space to accommodate the limited selection of beer and wine products.

The location of the Walgreens store is approximately 55 feet closer to Olsen Middle School than code allows to sell beer and wine. This measurement is from edge of the school property to the corner of the Walgreens building, as required by code. When measured from the entry gate at Olsen Middle School to the entry of Walgreens, as a pedestrian walks, the measurement is an approximate 2,100 feet separation. In addition, Walgreens is approximately 450 feet from Pancho's Backyard restaurant and approximately 660 from Publix, as measured from entrance to the facilities as required by code. Both Pancho's and Publix are licensed to sell alcohol and are separated from the Walgreens site by SE 5<sup>th</sup> Avenue. The Code requires a 1,000 foot separation from schools and other places selling alcohol.

Walgreens assures staff that alcoholic beverages sold in their stores are done so in a responsible manner. The company provides mandatory training to all employees prior to selling beer and wine in a store location. The company also requires identification from any customer attempting to purchase alcohol who appears under the age of 40 and the registers prompt employees to request identification of the customer to ensure compliance with this requirement before proceeding with the transaction.

In addition to company policies identified above, the applicant is willing to make the following a condition of approval:

- no single serving of beer will be sold;
- extensive training of all employees will take place prior to beer and wine availability at the store;
- employee must request ID for any customer attempting to purchase alcohol under the age of 40 (register prompts ensure compliance);
- only employees over 21 years and older will handle alcohol products; and
- limited hours of alcohol sales will be observed. The Code currently prohibits the sale of beer and wine between the hours of 2:00 a.m. and 7:00 a.m. on weekdays and 2:00 a.m. and 12:00 p.m. on Sundays. Walgreens is amenable to further restricting those hours of sale by not selling beer or wine between the hours of 12:00 a.m. and 7:00 a.m. on weekdays and between the hours of 12:00 a.m. and 12:00 p.m. on Sundays.

The applicant's request satisfies the variance criteria as identified below.

(1) That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the city.

The request maintains the basic intent and purpose as it relates to school separation.

(2) That the requested variance is otherwise compatible with the surrounding land uses and would not be detrimental to the community.

The request is compatible with the surrounding land uses. The use of the property is not changing. An established business in the community is requesting to sell alcohol for consumption off premises. It appears that the safeguard proposed by the applicant will prevent detrimental effect.

(3) That the requested variance is consistent with, and in furtherance of, the goals, objectives and policies of the adopted Comprehensive Plan, as amended from time to time, and all other similar plans adopted by the city.

The subject property is located in a commercial zoning district and has an underlying future land use designation of commercial. A business establishment selling retail items, including alcohol, is consistent with the city's Comprehensive Plan.

(4) That the plight of the petitioner is due to unique circumstances of the property or petitioner which would render conformity with the strict requirements of the subject regulations unnecessarily burdensome.

The property's unique circumstance relates to its proximity to Olsen Middle School and the commercial shopping center to the west. Several similar retail establishments sell beer and wine in the city as proposed by Walgreens. Therefore, conformity with the separation requirement in this situation, prohibiting Walgreens from selling alcohol, would be unnecessarily burdensome.

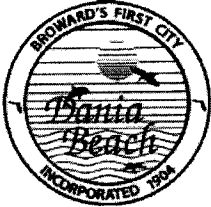
(5) That the variance requested is the minimum variance that is necessary to afford relief to the petitioner, while preserving the character, health, safety and welfare of the community.

The requested variance is the minimum amount necessary, as the buildings and property in question will not be relocating.

**STAFF RECOMMENDATION**

Approval with the conditions proposed by the applicant as follows:

- no single serving of beer will be sold;
- extensive training of all employees will take place prior to beer and wine availability at the store;
- employee must request ID for any customer attempting to purchase alcohol under the age of 40 (register prompts ensure compliance);
- only employees over 21 years and older will handle alcohol products; and
- limited hours of alcohol sales will be observed. The Code currently prohibits the sale of beer and wine between the hours of 2:00 a.m. and 7:00 a.m. on weekdays and 2:00 a.m. and 12:00 p.m. on Sundays. Walgreens is amenable to further restricting those hours of sale by not selling beer or wine between the hours of 12:00 a.m. and 7:00 a.m. on weekdays and between the hours of 12:00 a.m. and 12:00 p.m. on Sundays.



City of Dania Beach, Florida  
 Department of Community Development  
 Planning and Zoning Division  
 (954) 924-6805 X3643  
 (954) 922-2687 Fax

**Standard Development Application**



- Administrative Variance
- Land Use Amendment
- Plat
- Rezoning
- Site Plan
- Special Exception
- Variance
- Other: \_\_\_\_\_

Date Rec'd: \_\_\_\_\_

Petition No.: \_\_\_\_\_

(SEE APPLICATION TYPE SCHEDULE ON PAGES 3 & 4)

**THIS APPLICATION WILL NOT BE ACCEPTED UNTIL IT IS COMPLETE AND SUBMITTED WITH ALL NECESSARY DOCUMENTS.** Refer to the application type at the top of this form and "Required Documentation" checklist to determine the supplemental documents required with each application. For after the fact applications, the responsible contractor of record shall be present at the board hearing. Their failure to attend may impact upon the disposition of your application. As always, the applicant or their authorized legal agent must be present at all meetings. All projects must also obtain a building permit from the City Building Division. For more information please reference the **Dania Beach Land Development Code Part 6, Development Review Procedures and Requirements.**

Location Address: 501 E. Sheridan Street, Dania Beach, FL 33004-4612

Lot(s): N/A Block: N/A Subdivision: N/A

Recorded Plat Name: U S Lend Lease Plat No. 3 (Plat Book 113, Page 14)

Folio Number(s): 514202030011 Legal Description: See attached legal description

Applicant/Consultant/Legal Representative (circle one) Dwayne L. Dickerson, Esq.

Address of Applicant: Fowler White Boggs P.A., 1200 E. Las Olas Blvd., Suite 500, Ft. Lauderdale, FL 33301

Business Telephone: 954-703-3942 Home: N/A Fax: 954-707-4547

E-mail address: Dwayne.Dickerson@fowlerwhite.com

Name of Property Owner: Walgreen Co. c/o Rebecca Lidskin

Address of Property Owner: 104 Wilmot Road, MS 1420, Deerfield, IL 60015

Business Telephone: 847-315-4651 Home: N/A Fax: N/A

**Explanation of Request:** Variance from Chapter 28, Section 110-50, to allow the sale of wine within 1000 feet of a school or any other alcoholic beverage establishment. Please see attached justification statement.  
 For **Plats** please provide proposed **Plat Name** for **Variations** please attach **Criteria Statement** as per **Section 625.40 of the Land Development Code.**

Prop. Net Acreage: N/A Gross Acreage: 1.852 Prop. Square Footage: 80,673

Existing Use: Commercial (Walgreens) Proposed Use: Commercial (Walgreens)

Is property owned individually, by a corporation, association, or a joint venture? Corporation

**AUTHORIZED REPRESENTATIVE**

I/we are fully aware of the request being made to the City of Dania Beach. If I/We are unable to be present, I/we hereby authorize Dwayne L. Dickerson, Esq. of Fowler White Boggs PA (individual/firm) to represent me/us in all matters related to this application. I/we hereby acknowledge that the applicable fee was established to offset administrative costs and is not refundable.

I/we are fully aware that all approvals automatically expire within 12 months of City of Dania Beach Planning and Zoning Board or City Commission approval, or pursuant to the expiration timeframe listed in Part 6 of the Dania Beach Land Development Code.

STATE OF ILLINOIS  
COUNTY OF LAKE COUNTY  
The foregoing instrument  
was acknowledged

By: [Signature]  
(Owner / Agent signature\*)

BEFORE ME THIS 17 DAY OF April, 2013

By: Patricia C. Curescu  
(Print name of person acknowledging)

(Joint owner signature if applicable)

Notary Patricia C. Curescu  
(Signature of Notary Public – State of Illinois)



Personally known  or Produced Identification \_\_\_\_\_

Type of identification produced: \_\_\_\_\_ or Drivers License \_\_\_\_\_

**\*If joint ownership, both parties must sign. If partnership, corporation or association, an authorized officer must sign on behalf of the group. A notarized letter of authorization from the owner of record must accompany the application if an authorized agent signs for the owner(s).**

**NO APPLICATION WILL BE AUTOMATICALLY SCHEDULED FOR A MEETING.**

**ALL APPLICATIONS MUST BE DETERMINED COMPLETE BY STAFF BEFORE PROCESSING OCCURS.**

**JUSTIFICATION STATEMENT FOR VARIANCE TO ALLOW THE SALE  
OF WINE WITHIN 1,000 FEET OF A SCHOOL OR ANY OTHER  
ALCOHOLIC BEVERAGE ESTABLISHMENT**

Walgreen Co. ("Walgreens") is the owner of the property located at 501 E. Sheridan Street ("Property") in the City of Dania Beach ("City"). Walgreens is requesting a variance from Chapter 28, Section 110-50 of the City's Code of Ordinances ("Code") to allow for the sale of wine, for consumption off-premises, on the Property within 1,000 feet of a school or any other alcoholic beverage establishment. Walgreens is proposing to sell beer and wine at this store. Pursuant to Section 110-50(A)(1), the distance separation requirements listed in Section 110-50 do not apply to the sale of beer for consumption off-premises; therefore, beer may be sold at this store by right and no variance is necessary to do so. Please note that there is only one (1) school located within 1,000 feet of the Walgreens and that school (Olsen Middle School) is approximately 991 feet away (please see the attached distance survey). Walgreens will use existing shelf space to accommodate the limited selection of beer and wine products; therefore, the existing Walgreens store will not be expanded.

As discussed below, the requested variance adheres to the variance review criteria set forth in Chapter 28, Section 625-40 of the Code. Specifically, Walgreens will demonstrate that:

- (1) The requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the City;
- (2) The requested variance is otherwise compatible with the surrounding land uses and would not be detrimental to the community;
- (3) The requested variance is consistent with, and in furtherance of, the goals, objectives and policies of the adopted Comprehensive Plan ("Comp Plan"), as amended from time to time, and all other similar plans adopted by the City;
- (4) The plight of the petitioner is due to unique circumstances of the property or petitioner which would render conformity with the strict requirements of the subject regulations unnecessarily burdensome; and
- (5) The variance requested is the minimum variance that is necessary to afford relief to the petitioner, while preserving the character, health, safety and welfare of the community.

**FOWLER WHITE BOGGS P.A.**

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1200 EAST LAS OLAS BLVD., SUITE 500 • FORT LAUDERDALE, FLORIDA 33301  
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Chapter 28, Section 625-40 of City's Code includes the criteria to be applied by the City in granting variances. The criteria and justifications for each criterion are as follows:

(1) *The requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the City.*

This particular Walgreens is located in a commercial zoning district which is conducive to satisfying customer demands including the purchase of beer and wine for consumption off-premises. Customers have requested that Walgreens provide a one-stop shopping experience where they can buy a range of products at one location rather than having to travel, park and pay at a variety of different stores. The basic intent and purpose of the City's zoning regulations regarding the sale of alcohol is to ensure that it is done in designated commercial areas of the City and that it is done in a responsible and safe manner, while providing its citizens with products and services that they demand.

Walgreens has taken great measures to assure that any beverage containing alcohol will be sold in a responsible and appropriate manner. For example, all employees must undergo extensive training prior to beer and wine availability at each store. Additionally, Walgreens policy states that employees must request identification for any customer attempting to purchase alcohol who appears to be under the age of 40. Register prompts ensure compliance with this requirement before proceeding with the transaction. Further, only employees 21 years and older will handle alcohol products. Walgreens will also abide by all local and state laws concerning the handling of beer and wine products. Walgreens has partnered with the Broward County Sheriff's office to ensure that the Property remains free from loitering or any other unsavory activities. As a result of all of the above-mentioned measures, Walgreens' request to sell wine (along with beer which is permitted by right) for consumption off-premises will not negatively affect the stability or appearance of the City.

(2) *The requested variance is otherwise compatible with the surrounding land uses and would not be detrimental to the community.*

Several pharmacy/drug, grocery and convenient stores in the City, including the areas directly adjacent to the Property, sell beer and wine as proposed by Walgreens. The Property is located in the City's C-2 Community Business District which specifically permits retail stores. Additionally, the C-2 zoning district is intended to implement the commercial category of the City's Comp Plan. In addition to the great measures taken by Walgreens as discussed above, Walgreens' intent to sell beer and wine is aligned with the customary practices observed by a

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majority of retail pharmacy/drug, grocery and convenient stores and is definitely compatible with the surrounding land uses; therefore, granting this variance request would not be detrimental to the community.

In the 1990s, most Walgreens stores had full liquor selections. Walgreens has a long history of serving our communities as a trusted and responsible retailer and that will not change with the reintroduction of beer and wine.

*(3) The requested variance is consistent with, and in furtherance of, the goals, objectives and policies of the adopted Comp Plan, as amended from time to time, and all other similar plans adopted by the City.*

The City's Comp Plan states that the areas designated for commercial use on the Future Land Use Plan Map provide land area for business, office, retail, service and other commercial enterprises which support the resident and tourist populations of Dania Beach. Pursuant to Objective I, Policy 1.2 of the Comp Plan's Future Land Use Element, the City is required to provide commercialized activities to serve the residents of the community. Further, Objective V, Policy 5.6 requires the City to establish differing intensities of commercial development compatible with adjacent and surrounding land uses. As stated above, this Walgreens is located in a commercial zoning district which is conducive to satisfying customer demands including the purchase of beer and wine for consumption off-premises. Customers have requested that Walgreens provide a one-stop shopping experience where they can buy a range of products at one location rather than having to travel, park and pay at a variety of different stores. Granting this variance request will help the City further the goals, objectives and policies of the adopted Comp Plan as listed above.

*(4) The plight of the petitioner is due to unique circumstances of the property or petitioner which would render conformity with the strict requirements of the subject regulations unnecessarily burdensome.*

Literal interpretation of the provisions of this chapter would deprive Walgreens of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the petitioner. As discussed above, several pharmacy/drug, grocery and convenient stores in the City sell beer and wine as proposed by Walgreens; therefore, to prevent Walgreens from selling a modest amount of similar products will cause unnecessary and undue hardship to the petitioner.

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Walgreens has taken great measures to assure that any beverage containing alcohol will be sold in a responsible and appropriate manner. Detailed policies and procedures are already in place and will be strictly enforced without exception. As a result, Walgreens' variance request is directly in line with the ideals of the City and would not confer special privilege upon them that is denied to other lands, buildings or structures in the same zoning district.

*(5) The variance requested is the minimum variance that is necessary to afford relief to the petitioner, while preserving the character, health, safety and welfare of the community.*

The variance requested is the minimum variance that will make possible the reasonable use of the Property. As discussed above, Walgreens will use existing shelf space to accommodate the limited selection of beer and wine products; therefore, the existing Walgreens store will not be expanded.

Granting the requested variance will be in harmony with the general intent and purpose of the Code and will not be injurious to the area or detrimental to the public welfare. The petitioner is proposing to provide a modest selection of beer and wine merchandise which will be in harmony with the general purposes of the Code and would not be contrary to the public interest, health, or welfare, taking into account the character of the surrounding neighborhood. In fact, the requested variance is in response to customer demand. Customers want more of a one-stop shopping experience where they can buy a range of products at one location rather than having to travel, park and pay at a variety of different stores.

**CONDITIONS OF APPROVAL:**

Pursuant to the City's request, this correspondence serves as confirmation that my client is amenable to the following conditions of approval being placed in the approved variance resolution subject to the City Commission approving the variance request/application as submitted.

- 1) No single servings of beer will be sold;
- 2) Extensive training of all employees will take place prior to beer and wine availability at the store;
- 3) Employees must request ID for any customer attempting to purchase alcohol under the age of 40 (register prompts ensure compliance);

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- 4) Only employees 21 years and older will handle alcohol products; and
- 5) Limited hours of alcohol sales will be observed. The Code currently prohibits the sale of beer and wine between the hours of 2:00 a.m. and 7:00 a.m. on weekdays and 2:00 a.m. and 12:00 p.m. on Sundays. Walgreens is amenable to further restricting those hours of sale by not selling beer or wine between the hours of 12:00 a.m. and 7:00 a.m. on weekdays or between the hours of 12:00 a.m. and 12:00 p.m. on Sundays.

Please note that if the variance is not granted as requested, Walgreens will sell beer at this store pursuant to the regulations listed in the City's current Code and without the additional voluntary conditions of approval listed above (except for conditions 2, 3 and 4 which will be observed pursuant to Walgreens' existing corporate policy).

If you have any questions regarding the foregoing, please do not hesitate to contact me.

Very truly yours,

FOWLER WHITE BOGGS P.A.

A handwritten signature in black ink that reads "Dwayne L. Dickerson".

Dwayne L. Dickerson, Esquire

Date: July 2, 2013

**FOWLER WHITE BOGGS P.A.**

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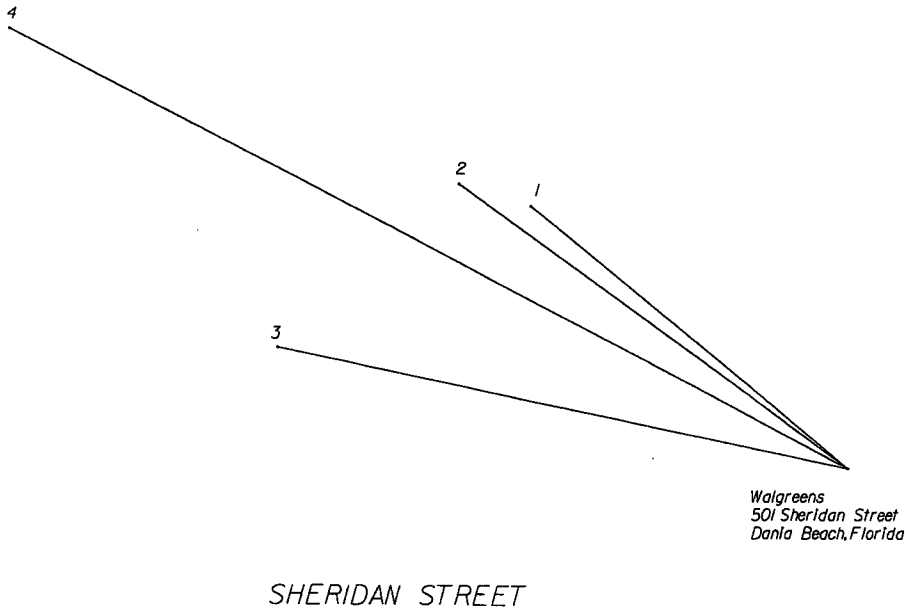
CERTIFICATION:  
 I DO HEREBY CERTIFY THAT THE DISTANCES AS INDICATED HEREON ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND AS MEASURED IN THE FIELD UNDER MY DIRECT SUPERVISION. NO CHURCHES, SCHOOLS OR PLACES THAT SELL ALCOHOLIC BEVERAGES WERE OBSERVED WITHIN (LESS THAN) THE SPECIFIED DISTANCES PURSUANT TO CHAPTER 28 (LAND DEVELOPMENT CODE), ARTICLE 110 SECTION 110-50 AND MEASURED AS OUTLINED IN ARTICLE 700 SECTION 700-140 OF THE CITY OF DANIA BEACH MUNICIPAL CODE EXCEPT AS DEPICTED HEREON.



- DISTANCES MEASURED FROM WALGREENS  
 1. PANCHO'S RESTAURANT- 433 E. SHERIDAN STREET- 430 FEET  
 2. DON & SAL'S ITALIAN RESTAURANT- 419 E. SHERIDAN STREET- 504 FEET  
 3. PUBLIX SUPER MARKET- 401 E. SHERIDAN STREET- 610 FEET  
 4. OLSEN MIDDLE SCHOOL- 330 S.E. 11TH. STREET- 991 FEET

DANIA BEACH, FLORIDA

SOUTH FEDERAL HIGHWAY



BY: Mark D. Sturgis 4-30-13  
 MARK D. STURGIS  
 PROFESSIONAL SURVEYOR AND MAPPER NO. 4829  
 STATE OF FLORIDA

NOTE: IT IS THE PURPOSE OF THE SPECIAL PURPOSE DISTANCE SURVEY DEPICTED HEREON TO SHOW THE SPATIAL RELATIONSHIP HORIZONTALLY BETWEEN THE OBJECTS AS LABELED. NO OTHER INTENT IS INTENDED OR IMPLIED.

Updated 4-23-13

501 EAST SHERIDAN STREET  
 CITY OF DANIA BEACH, BROWARD COUNTY, FLORIDA

DISTANCE SURVEY  
 WALGREENS, DANIA BEACH, FLORIDA

**JW WINNINGHAM & FRADLEY, INC.**  
 ENGINEERS • PLANNERS • SURVEYORS

EB-0002995	DRAWN: MDS	DATE: 10-16-09	PROJECT NUMBER	SHEET
LB-0002995	CHECKED:	DATE:	W-09034D	1 OF 1



NOTICE OF PUBLIC HEARINGS  
ON LAND DEVELOPMENT CODE AMENDMENTS  
CITY OF DANIA BEACH, FLORIDA

A Public Hearing will be conducted by the City of Dania Beach City Commission meeting on Tuesday, July 23, 2013 at 7:00 p.m. or as soon thereafter as the same may be heard at the City Commission Chambers located at the Dania Beach Administrative Center, 100 West Dania Beach Blvd., Dania Beach, FL 33004 to hear any comments relating to the following requests:

- 1) **VA-13-13:** The applicant, Dwayne Dickerson with Fowler White Boggs P.A., on behalf of Walgreen Co., is requesting a variance for the sale of alcohol less than 1000 feet from a school or any other alcoholic beverage establishment for a property located at 501 E Sheridan Street.

A RESOLUTION OF THE CITY OF DANIA BEACH, FLORIDA APPROVING THE VARIANCE REQUEST SUBMITTED BY WALGREENS COMPANY FROM CHAPTER 28, "ZONING", SECTION 110-50 "PROXIMITY OF BEVERAGE ESTABLISHMENTS TO OTHER ESTABLISHMENTS AND USES", FOR PROPERTY LOCATED AT 501 EAST SHERIDAN STREET, DANIA BEACH; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

*Legally Described as:* A portion of Parcel A, US LEND LEASE PLAT NO. THREE, according to the Plat thereof, as recorded in Plat Book 113, at page 14, of the Public Records of Broward County, Florida, being more particularly described as follows: Begin at the Southeast corner of said parcel 'A' thence North 00° 05'42" East, along the East line of said Parcel "A" for a distance of 306.00 feet; thence North 90°00'00" West, for a distance of 262.70 feet to a point on the West line of said parcel "A" thence South 00°07'10" West along the West line of said Parcel "A" for a distance of 193.01 feet; thence South 08°09'10" West, for a distance of 78.71 feet; thence South 44°56'25" East, for a distance of 49.55 feet; thence South 90°00'00" East, along the South line of said Parcel "A" for a distance of 238.76 feet to the POINT OF BEGINNING.

Copies of the proposed requests are available for viewing in the Community Development Department, 100 West Dania Beach Boulevard, Dania Beach, Florida, and may be inspected by the public during normal business hours. For more information please call the Planning Division at (954) 924-6805 x3643.

In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's office, 100 W. Dania Beach Blvd, Dania Beach, FL 33004, (954) 924-6800 x3623, at least 48 hours prior to the meeting.

Please be advised that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at this hearing, such person will need a verbatim record of

the proceedings and for this purpose such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to based. The city does not provide or prepare such record pursuant to f.s. 286.0105.

Community Development Department  
Planning Division  
Publish: Friday, July 12, 2013



501 E SHERIDAN STREET



Name: 2013 PHH Street Map Dania Beach

