6.8
PUBLIC HEARING

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Marcie O. Nolan, AICP, Acting Development Services Director/(954) 797-1101

PREPARED BY: Lise Bazinet, Planner II

SUBJECT: Quasi Judicial Hearing, Variance Application: V 9-1-07/07-146/Rick Case Hyundai Dealership/3550 Weston Road

AFFECTED DISTRICT: District 4

ITEM REQUEST: **Petitioner Requesting a Tabling/Withdrawal**

TITLE OF AGENDA ITEM: V 9-1-07, Rick Case, Hyundai Dealership, 3550 Weston Road

REPORT IN BRIEF: The petitioner is requesting a variance from the Land Development Code§12-87, Setback standards for the Business Park (BP) District, from a required minimum 70 foot setback from all exterior property lines for buildings with stucco-faced concrete exteriors to provide a 25 foot exterior property line setback fronting Interstate 75. This variance request is in conjunction with a site plan modification for the addition of a showroom/garage building to the existing Rick Case Honda dealership. In this case, the difficulty in meeting the 70 foot setback is related to the triangular shape of the lot, the desire to move the most intensive part of the development as far as possible from the residential area to the west, and the desire to maintain consistency with the concrete/stucco exteriors of the existing buildings on the site. *The petitioner has submitted a letter requesting a tabling to the April 16, 2008 meeting.

PREVIOUS ACTIONS: n/a

CONCURRENCES:
At the March 12, 2008 Planning & Zoning Board meeting, Vice-Chair Stevens made a motion, seconded by Mr. Pignato, to approve. In a roll call vote, the vote was as follows: Chair Bender – abstained; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Pignato – yes; Ms. Turin – yes. **(Motion carried 4-0)**

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S):
Staff finds the application complete and suitable for transmittal to the Town Council for further consideration.

Attachment(s): Planning Report

Development Services Department
Planning & Zoning Division
6591 ORANGE DRIVE • DAVIE, FLORIDA 33314-3399
PHONE: 954.797.1103 • FAX: 954.797.1204 • WWW.DAVIE-FL.GOV

MEMORANDUM
PZ 3-18-08

TO: Mayor and Town Council

THROUGH: Gary Shimun, Town Administrator
Marcie Nolan, AICP, Acting Development Services Director
David Quigley, AICP, Planning & Zoning Manager

FROM: Lise Bazinet, Planner II

DATE: March 24, 2008

Re: *V 9-1-07/Rick Case (Variance Application)*

REQUEST:
The Petititoner is requesting that the above referenced item, currently scheduled on the April 2, 2008 Town Council meeting be tabled to April 16, 2008.

PREVIOUS ACTIONS: n/a

CONCURRENCES:
At the March 12, 2008 Planning & Zoning Board meeting, Vice-Chair Stevens made a motion, seconded by Mr. Pignato, to approve. In a roll call vote, the vote was as follows: Chair Bender – abstained; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Pignato – yes; Ms. Turin – yes. **(Motion carried 4-0)**

JUSTIFICATION:
The petitioner is requesting to table this item. Both the Owner and the petitioner will be out of Town for the Town Council meeting on April 2, 2008 (see attached petitioner's justification letter).

LAW OFFICES
DOUMAR, ALLSWORTH, LAYSTROM,
VOIGT, WACHS, MAC IVER & ADAIR, LLP

JOHN H. ADAIR, III, P.A.
EMERSON ALLSWORTH, P.A.
E. SCOTT ALLSWORTH, P.A.
MARK E. ALLSWORTH, P.A.
KAREY L. BOSACK, P.A.
RAYMOND A. DOUMAR, P.A.*

† ALSO ADMITTED IN PENNSYLVANIA
* ALSO ADMITTED IN MICHIGAN

1177 SOUTHEAST THIRD AVENUE
FORT LAUDERDALE, FLORIDA 33316-1109
BROWARD (954) 762-3400
TOLL FREE (866) 242-9488
TELEFAX (954) 525-3423
WEBSITE: DACLLAW.COM

C. WILLIAM LAYSTROM, JR., P.A.
STUART J. MAC IVER, P.A.
ANDRE PARKE, P.A.
JOHN D. VOIGT, P.A.
JEFFREY S. WACHS, P.A.†

OF COUNSEL
WILLIAM S. CROSS, P.A.
JOHN W. PERLOFF, P.A.

VIA FAX AND U.S. MAIL
(954) 797-1204

March 19, 2008

Ms. Lise Bazinet
Planner II
Town of Davie
6591 Orange Drive
Davie, Florida 33314-3399

Re: Rick Case Hyundai
Site Plan Modification SPM 8-6-07
Variance V 9-1-07

Dear Lise:

As you are aware, the site plan application has now been to the Site Plan Committee which has recommended approval, while the variance application has been before the Planning & Zoning Board which has also recommended approval. I believe the next step is for both items to be placed on the Town Council agenda. We would respectfully request that these items not be placed on a Town Council agenda earlier than the second council meeting for the month of April, 2008. Bill Laystrom and I will both be out of town for the first town council meeting of April in the event that they were to be scheduled at that time.

RECEIVED
MAR 21 2008
Town of Davie
Planning & Zoning

Thank you for your consideration in this regard. Please contact either Bill or me should you have any questions.

Sincerely,

JOHN D. VOIGT
For the Firm

JDV/kdr

cc: Rick Case Hyundai

Exhibit "A"
Application: V 9-1-07/07-146/Rick Case
Original Report Date: 02/04/2008 **Revision(s):** 03/14/2008

TOWN OF DAVIE

Development Services Department
Planning & Zoning Division
Staff Report and Recommendation

Applicant Information

Owner:
Name: RR Davie, LLC – Richard J. Case
Address: 875 N. State Road 7
City: Fort Lauderdale, Florida 33317
Phone: (954) 587-1111

Petitioner:
Name: Architecture 6400 Inc. – Christopher H. Miller
Address: 300 S.E. 2nd Street
City: Fort Lauderdale, Florida 33301
Phone: (954) 627-9180

Background Information

Date of Notification: March 5, 2008 **Number of Notifications:** 24

Petitioner's Request: Variance from the Land Development Code §12-87, Setback standards for the Business Park (BP) District **FROM:** a required minimum 70 foot setback from all exterior property lines for stucco-faced concrete block buildings **TO:** provide a 25 foot exterior property line setback from Interstate 75.

Address: 3550 Weston Road

Location: Generally located on the north side of SW 36 Street, between Weston Road and I-75.

Future Land Use Plan Map: Residential 1 DU/AC

Zoning: BP, Business Park District

Existing Use(s): Rick Case Hyundai Dealership

Parcel Size: 13.02 Acres (594,058 square feet)

Surrounding Use(s):		**Surrounding Land Use Plan Map Designation(s):**
North:	I-75	Transportation
South:	Road/Davie Volvo-Nissan	
	Transportation/Commercial	
East:	I-75	Transportation
West:	Meridian Business Campus	Industrial

Surrounding Zoning(s):

North:	T, Transportation District
South:	T, Transportation District, and BP, Business Park District
East:	T, Transportation District
West:	PDD, Planned Development District (City of Weston)

Zoning History

Related Zoning History:
At the June 20, 2007 Town Council meeting, the site plan modification SPM 4-2-07 for the Smart Car Dealership was approved.

At the January 15, 2003 Town Council meeting, the site plan SP 9-5-02 was approved.

On December 4, 2001 the plat P 12-1-98 Pointe West Center North, was approved by the Broward County Board of County Commissioners, and recorded it in the official records of Broward County.

At the February 16, 2000 Town Council meeting, the site plan, SP 11-11-99 Davie Dealership, was approved.

At the January 5, 2000 Town Council meeting, the plat was approved with a plat note restricting it to 55,000 square feet of auto dealership use.

At the December 15, 1999 Town Council meeting, the rezoning, ZB 8-1-99, Ordinance 99-44, of the northern portion of the subject site from AG, Agricultural District to BP, Business Park District for 3.55 acres with the utilization of the Broward County "5% residential-to-commercial" flexibility rule was approved.

At the February 3, 1999 Town Council meeting, the rezoning, ZB 9-2-98, Ordinance 99-03, of the southern portion of the subject site from AG, Agricultural District to BP, Business Park District for 6.45 acres with the utilization of the Broward County "5% residential-to-commercial" flexibility rule was approved.

Concurrent Request(s) on same property:
Site Plan Modification (SPM 8-6-07), requesting approval for an addition to the existing Rick Case Hyundai dealership.

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), Rezonings, 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 12-87, Setback standards for the Business Park (BP) District: Minimum setbacks from exterior property lines.

Comprehensive Plan Considerations

The subject property falls within Planning Area 1: This Planning Area constitutes the southwestern most portion of the Town, encompassing all of the land south of Griffin Road and west of southwest 148 Avenue. The Ivanhoe development constitutes most of this planning area, which is essentially programmed for low density (3 dwellings per acre) residential development. There are parcels designated for commercial use located in the southern and northern ends of the Ivanhoe development at the intersection of I-75 with Sheridan and Griffin Roads, and Orange Drive.

Broward County Land Use Plan:
The subject site falls within Flexibility Zone 113.

Applicable Goals, Objectives & Policies:
Future Land Use Plan, Policy 5-2: The (re)zoning, (re)platting, and site planning of land shall be in compliance with the density ranges shown on the Davie Future Land Use Plan map and the applicable Future Land Use Designation provisions as contained in the Permitted Use portion of the Implementation Section.

Future Land Use Element, Policy 7-4: Commercial land uses shall generally be located with access to primary transportation facilities including interstates, highways and arterials. Commercial uses located on arterials not designated by the Future Land Use Map as commercial corridors should be limited to the intersection of two arterials or arterials and interstates. Consistent with Policy 7-1, vacant land with such access shall be evaluated for potential commercial use.

Future Land Use Element, Policy 17-1: Lands designated for non-residential use shall be located in a manner, which facilitates development, but does not adversely impact existing and designated residential areas.

Future Land Use Plan, Policy 17-3: Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Application Details

The petitioner is requesting a variance §12-87, Setback standards for the Business Park (BP) District from a required minimum 70 foot setback from all exterior property lines for buildings with stucco-faced concrete exteriors to provide a 25 foot exterior property line setback fronting Interstate 75.

Staff Analysis

This variance request is in conjunction with a site plan modification for the addition of a showroom/ garage building to the existing Rick Case Honda dealership. The main intent of the code requirement is to provide substantial setbacks from all exterior property lines for stucco-faced concrete block buildings in order to promote other types of building exteriors in the BP, Business Park District.

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:

The following information is staff's analysis based on the criteria established in the Town of Davie 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,

There are special conditions related to the property; the shape is triangular, limiting the site. Based on this condition, and the setback requirement linked to the stucco-faced building proposed (a specific regulation in the BP Business Park zoning district, the subject site is limited.

which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same district,

The parcel can be reasonably used by providing exteriors such as brick, or split face concrete block with a minimum of 10% glazed tile or curtain wall construction (subject to approval by the Town) where the permitted setback is the width of the buffer yard (20 foot). However, the proposed building exterior is consistent with the existing buildings, creating a cohesive development of the site.

and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variances are sought,

The triangular shape of the property limits the site at the northern portion where the new building is being proposed. The intent of this provision is to provide a larger setback from all exterior property lines for stucco-faced concrete block buildings in order to promote other types of building finishes in the BP, Business Park District. The granting of this variance will allow the petitioner to maintain consistency with the existing and proposed façade finishes.

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

The regulations in this district requires an additional 50 foot setback when stucco-faced concrete is used in a building from all exterior property lines, therefore the hardship, in this case the additional 50 foot setback, is not self-created.

(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 parcels can be reasonably used without a variance by modifying the exterior material of the proposed building. However, the building as proposed is consistent with the exiting development in the site.

(c) That granting the 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 site is located between SR I75 and Weston Road, north of SW 36th Street. The intent of the Land Development Code is to provide additional buffer for stucco-faced concrete when used in a building adjacent to exterior right-of ways to improve the visual qualities of buildings within the BP Business Park district. However, the granting of this variance will maintain consistency between the proposed and existing buildings and will not be detrimental to the public welfare.

Staff Recommendation

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

Planning and Zoning Board Recommendation

At the March 12, 2008 Planning & Zoning Board meeting, Vice-Chair Stevens made a motion, seconded by Mr. Pignato, to approve. In a roll call vote, the vote was as follows: Chair Bender – abstained; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Pignato – yes; Ms. Turin – yes. **(Motion carried 4-0)**

Town Council Action

Exhibits

1. Justification Letter
2. Mail-out Map
3. Mail-out
4. Future Land Use Plan Map
5. Aerial, Zoning, and Subject Site Map

Prepared by: _____

Reviewed by: _____

File Location: P&Z\Development Applications\Applications\V_Variance\V_07\V 9-1-07 Rick Case

Exhibit 1 (*Justification Letter*)

JUSTIFICATION STATEMENT
FOR VARIANCE APPLICATION

RE: Rick Case Hyundai/Powerhouse
3550 Weston Road
Davie, Florida 33332

DATE: September 18, 2007

The subject site consists of approximately 13.02 acres located on the north side of S.W. 36th Street between Weston Road and I-75. The subject site abuts the City of Weston to the west. To the east and north Interstate 75 wraps around the site. To the south the Davie Volvo/Nissan Dealership is located on the south side of S.W. 36th Street.

The delegation request approved by both the Town of Davie and Broward County in early 2005, contemplated the construction of a parking garage for storage of vehicle inventory as well as expansion of the existing dealership. Concurrently with this application, a site plan modification application has been submitted to the Town of Davie providing for construction of a six story parking garage including additional dealership facilities on the ground floor. The subject property is zoned BP for business park, and Section 12-87 of the code provides for certain setbacks for business park zoning districts. The proposed parking garage and dealership is being placed as far away from Davie residents on the east of I-75 as possible. As a result, it abuts I-75 and has been moved to the northernmost portion of the parcel as a result. The property is triangular shaped with the property line angling to the northwest at this point, which makes a variance necessary to meet the setback requirement from I-75. The applicant seeks to reduce the setback in its narrowest point to 25 feet 5 inches.

A review of the variance request should include a consideration of the criteria listed in Section 12-309 of the Town of Davie Land Development Code to determine if the request should be favorably reviewed. These criteria with respect to the subject request are discussed below.

Criterion (a): Whether 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 not apply generally to land or buildings

in the same district, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought, and that alleged hardship is not self-created by any person having an interest in the property.

The property abuts I-75 which angles across the east and northern boundaries of the property reducing the property to a triangular shape. The attempted placement of a virtually rectangular parking garage in this area requires a reduction in the setback from I-75. The parking garage has been moved to this location due to concerns by Davie residents across I-75 to the east. This location moves the garage as far away from those residents as physically possible, but places the garage on a narrow oddly-shaped piece of the property. Since this parking garage and dealership expansion has been contemplated for several years, and prior applications have been approved based on the concept that the parking garage would be forthcoming, it would tend to deprive the applicant of the reasonable use of the land or building for which the variance is sought if the code as to the setback had to be honored. Since the setback is only from a major interstate highway, there is still far greater distance due to right-of-way requirements, so the variance should not cause any type of hardship.

As a result, the variance request satisfies this criterion.

Criterion (b): Whether 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 applicant has tapered the building in an effort to minimize the variance request while complying with all other terms and conditions of site plan requirements. As a result, the variance request frequently exceeds the minimum of 21 feet 5 inches, but is definitely the minimum variance that will accomplish the purpose of the dealership expansion and construction of the parking garage.

As a result the variance request satisfies this criterion.

Criterion (c): Whether the granting of the 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 granting of the variance would not be injurious to the neighborhood or otherwise detrimental to the public welfare since the setback reduction is only as against Interstate 75 and not an adjoining residential neighborhood. The large setback requirements for business park zoning districts are to keep those business type uses away from residential neighborhoods and the general public as a whole. Interstate 75 and its large right-of-ways accomplish this without the necessity of a further large setback from the highway right-of-way to the building itself.

As a result, this variance application satisfies this criterion.

As has been demonstrated, the requested variance from Section 12-87 is consistent with the criteria required for the granting of a variance application. As a result, the variance request merits favorable consideration.

Exhibit 2 ***(Mail-out Map)***

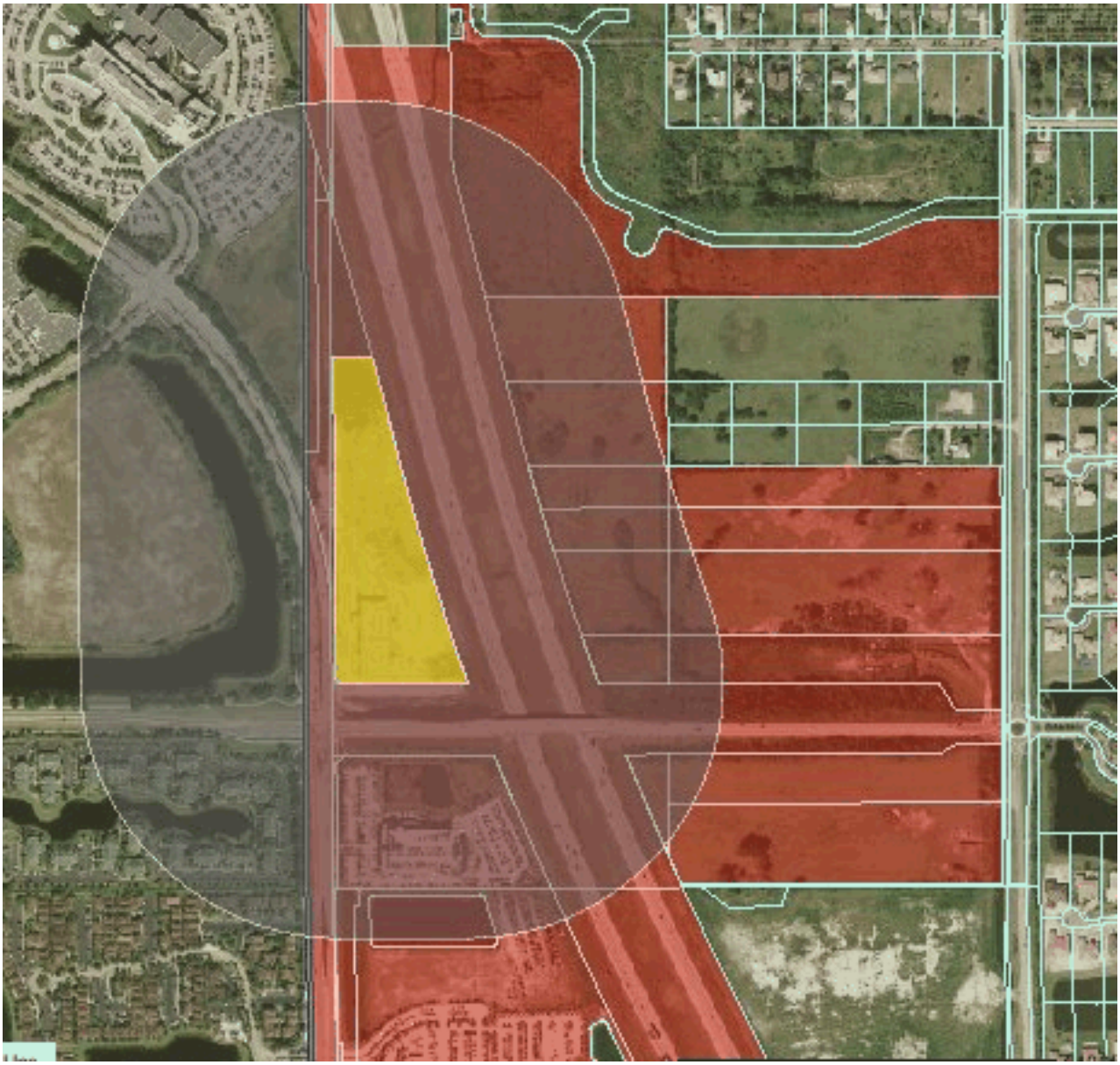
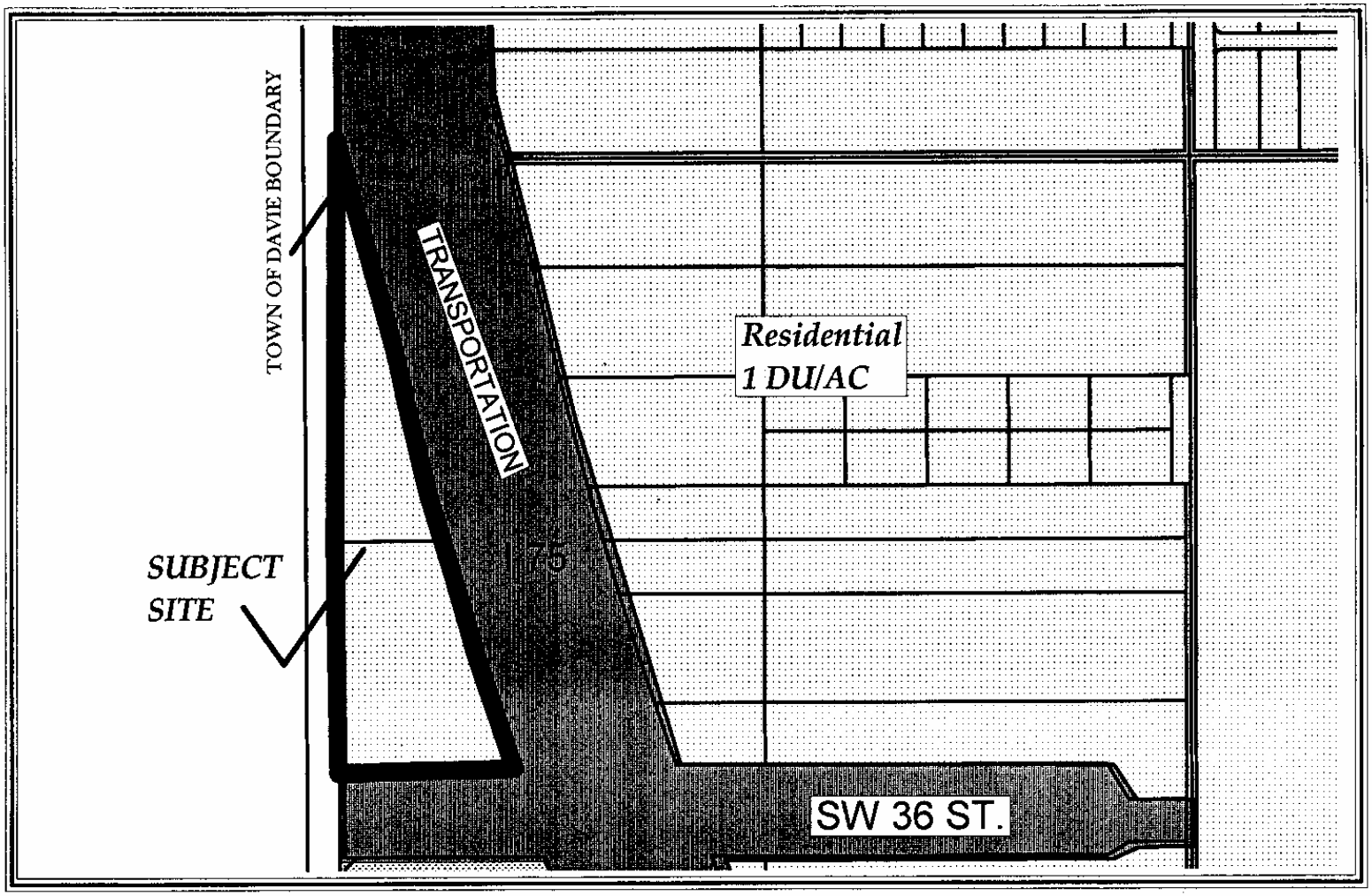


Exhibit 3 ***(Mail -out)***

NAME_LINE_	ADDRESS_LI	ADDRESS_1
BURGESS,GENE R	5850 SW 32 TER	FT LAUDERDALE FL 33312
BURGESS,GENE R	5850 SW 32 TER	FT LAUDERDALE FL 33312
BURGESS,GENE R	5850 SW 32 TER	FT LAUDERDALE FL 33312
BURGESS,GENE R	5850 SW 32 TER	FT LAUDERDALE FL 33312
BURGESS,GENE R	5850 SW 32 TER	FT LAUDERDALE FL 33312
BURGESS,GENE R	5850 SW 32 TER	FT LAUDERDALE FL 33312
DOM INC	9401 BISCAYNE BLVD	MIAMI SHORES FL 33138-2970
M S & S TOYOTA INC	3801 W SUNRISE BLVD	FT LAUDERDALE FL 33311
OAK SCHOLAR OF BROWARD LLC	6035 SW 88 CT	MIAMI FL 33173
OAK SCHOLAR OF BROWARD LLC	6035 SW 88 CT	MIAMI FL 33173
PLANTATION SALES INC	747 NORTH STATE ROAD 7	PLANTATION FL 33317
PLANTATION SALES INC	747 NORTH STATE ROAD 7	PLANTATION FL 33317
POINTE WEST PROPERTY OWNERS ASSN	17794 SW 2 ST	PEMBROKE PINES FL 33029
POINTE WEST PROPERTY OWNERS ASSN	17794 SW 2 ST	PEMBROKE PINES FL 33029
R & R DAVIE LLC	949 HILLSBORO MILE	HILLSBORO BEACH FL 33062
R & R DAVIE LLC	949 HILLSBORO MILE	HILLSBORO BEACH FL 33062
R & R DAVIE LLC	949 HILLSBORO MILE	HILLSBORO BEACH FL 33062
RYAN,TIMOTHY M	310 SE 6 ST	DANIA BEACH FL 33004
RYAN,TIMOTHY M	310 SE 6 ST	DANIA BEACH FL 33004
RYAN,TIMOTHY M	310 SE 6 ST	DANIA BEACH FL 33004
RYAN,TIMOTHY M	310 SE 6 ST	DANIA BEACH FL 33004
SOUTHERN HOMES OF DAVIE V LLC	12900 SW 128 ST SUITE 100	MIAMI FL 33186
SOUTHERN HOMES OF DAVIE V LLC	12900 SW 128 ST SUITE 100	MIAMI FL 33186
SOUTHERN HOMES OF DAVIE V LLC	12900 SW 128 ST SUITE 100	MIAMI FL 33186

Exhibit 4 (*Future Land Use Plan Map*)



N

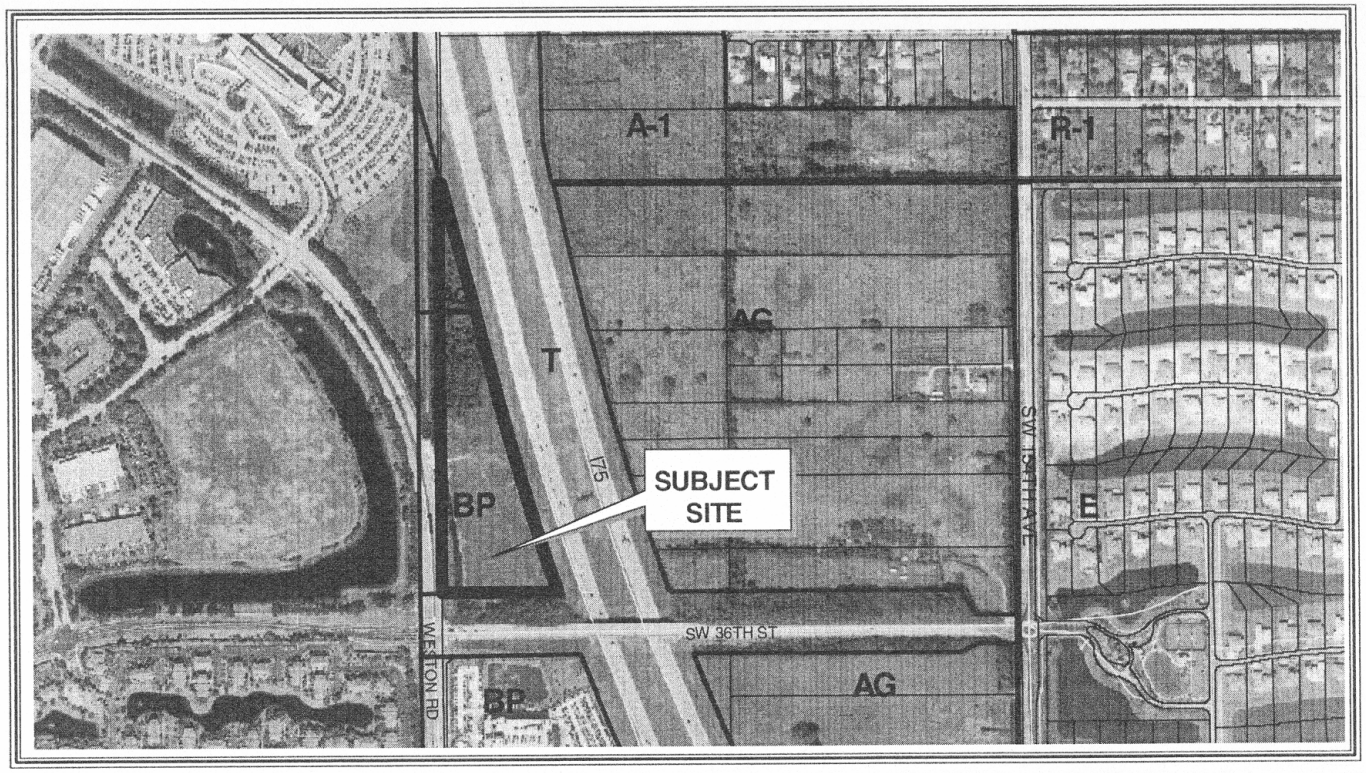
400 0 400 Feet

Planning & Zoning Division - GIS

TOWN OF DAVIE FLORIDA

Site Plan
SP 9-5-02
Existing Future Land Use Map

Exhibit 5 (*Aerial, Zoning, and Subject Site Map*)



Date Flown:
12/31/03

N

500 0 500 1000 Feet

Prepared by the Town of Davie GIS Division

TEMPORARY USE
Zoning and Aerial Map

Prepared By: ILD
Date Prepared: 3/10/05